

By: Brimer

S.B. No. 574

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, and 43.359 through 43.367 and adding Sections 43.3562 and 43.368 to read as follows:

Sec. 43.351. DEFINITIONS. In this subchapter:

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

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

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

(4) "Durable identification tag" means a single tag not easily dislodged or removed and made of a material that is not likely to disintegrate or decompose. The term includes, but is not limited to, newly developed technologies, including radio

1 frequency identification tags.

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

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

10 (b) The department shall issue a permit under this section  
11 that is valid for longer than one year.

12 Sec. 43.356. SERIAL NUMBER; IDENTIFICATION OF DEER. (a)  
13 The department shall issue a serial number to a permittee when the  
14 department issues the permittee a deer breeder's permit [the  
15 applicant at the time of the first issuance of a scientific  
16 breeder's permit to the applicant]. The same serial number shall be  
17 assigned to the permittee if the department issues the permittee a  
18 subsequent deer [whenever he holds a scientific] breeder's permit.

19 (b) The deer [scientific] breeder shall as soon as  
20 practicable place on each of the breeder's deer a single,  
21 reasonably visible, durable identification [a suitable permanent]  
22 tag bearing an alphanumeric number of not more than four characters  
23 assigned by the department and unique to that deer. A deer breeder  
24 is not required to remove the tag for any purpose but may remove the  
25 tag [bearing the scientific breeder's serial number on the ear of  
26 each white-tailed deer or mule deer possessed by the scientific  
27 breeder and shall place on the white-tailed deer or mule deer any

1 ~~other identification marking prescribed by the commission].~~

2 Sec. 43.3562. DEER RELEASED FROM AND ACCEPTED INTO  
3 FACILITY. (a) A person may not remove or knowingly permit the  
4 removal of a deer held in a facility by a permittee under this  
5 subchapter unless the deer has been permanently and legibly tagged  
6 in one ear with the unique identification number assigned to the  
7 breeder when the deer was born or lawfully obtained from an  
8 out-of-state source.

9 (b) Except for a breeder under Section 43.356(b) who  
10 initially tags a deer, a person may not knowingly accept or permit  
11 the acceptance of a deer into a facility regulated under this  
12 subchapter unless the deer has been permanently and legibly tagged  
13 in one ear with the unique identification number assigned when the  
14 deer was born or lawfully obtained from an out-of-state source.

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

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

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

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

1           (1) removal from an enclosure;

2           (2) veterinary treatment;

3           (3) tagging;

4           (4) euthanasia for the purpose of:

5                   (A) humane dispatch of the deer; or

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

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

9           (b) The commission may make regulations not inconsistent  
10 with this subchapter to govern [~~governing~~]:

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

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

17                   (3) permit applications and fees;

18                   (4) reporting requirements;

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

21                   (6) the endorsement of a breeder facility by a  
22 certified wildlife biologist;

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

24 and

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

26           (c) A person who holds a permit under this subchapter is not  
27 required to have the habitat conditions at the release site

1 inspected before the release of a deer from a breeding facility  
2 unless an inspection is required under the terms of another permit  
3 issued to the person by the department.

4       Sec. 43.359. RECORDS AND REPORTS. (a) A deer [~~scientific~~]  
5 breeder shall maintain an accurate and legible record of all  
6 [~~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 not  
14 inconsistent with this subchapter may 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 current  
18 reporting year available to:

- 19               (1) the game warden; or  
20               (2) another department employee specified by the game  
21 warden.

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

25       Sec. 43.361. SHIPMENT OF [WHITE-TAILED] DEER. [~~(a) A~~  
26 ~~common carrier may not accept a live white-tailed deer or mule deer~~  
27 ~~unless the shipment is made by a holder of a scientific breeder's~~

1 ~~permit or by a person holding a permit under Subchapter C of Chapter~~  
2 ~~43 of this code.~~

3 ~~[(b)]~~ No person, except a deer ~~[scientific]~~ breeder, the  
4 deer breeder's ~~[his]~~ authorized agent, a deer breeder assisting  
5 another deer breeder, or a person holding a permit under Subchapter  
6 C ~~[of Chapter 43 of this code]~~, may transport or ship a live  
7 ~~[white-tailed]~~ deer ~~[or mule deer]~~ unless the person ~~[he]~~ obtains a  
8 transfer permit ~~[for shipment or transportation]~~ from the  
9 department.

10 Sec. 43.362. TRANSFER, PURCHASE, OR ~~[AND]~~ SALE OF LIVE  
11 ~~[WHITE-TAILED] DEER [AND MULE DEER].~~ ~~[(a) Only white-tailed deer~~  
12 ~~and mule deer that are in a healthy condition may be sold, bartered,~~  
13 ~~or exchanged, or offered for sale, barter, or exchange, by a~~  
14 ~~scientific breeder.~~

15 ~~[(b)]~~ Except as provided by Subchapter C or by a rule  
16 adopted by the commission under and not inconsistent with this  
17 subchapter, ~~[Chapter 43,~~ no person may purchase, obtain, sell,  
18 transfer, or accept in this state a live ~~[white-tailed]~~ deer ~~[or~~  
19 ~~mule deer]~~ unless the person obtains a transfer permit ~~[for~~  
20 ~~purchasing]~~ from the department ~~[and.~~

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

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

25 ~~[(c) No person may release into the wild a white-tailed deer~~  
26 ~~or mule deer unless all visible markings required by Section~~  
27 ~~43.356(b) have been removed.]~~

1           Sec. 43.363. TRANSFER [~~SALE~~] DURING OPEN SEASON. (a)  
2 During an open hunting season for [~~taking the white-tailed~~] deer or  
3 [~~mule deer or~~] during the 10-day [~~a~~] period immediately preceding  
4 [~~of 10 days before~~] an open hunting season, [~~no scientific breeder~~  
5 ~~may release into the wild or sell or ship to a person other than a~~  
6 ~~person holding a scientific breeder's permit, a white-tailed deer~~  
7 ~~or mule deer and~~] no person in this state [~~, other than a scientific~~  
8 ~~breeder,~~] may sell, transfer, ship, or transport [~~a purchase from a~~  
9 ~~scientific breeder in this state a white-tailed~~] deer [~~or mule~~  
10 ~~deer~~] unless the person [~~scientific breeder~~]:

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

15           (2) has followed any procedure prescribed by rule of  
16 the commission not inconsistent with this subchapter for the lawful  
17 conduct of activities under this subchapter [~~given written notice~~  
18 ~~of the sale to the department~~].

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

21                   (1) to another deer breeder; or

22                   (2) to a person holding a deer management permit.

23           (c) [(b)] The commission shall adopt rules not inconsistent  
24 with this subchapter [~~make regulations~~] governing a transfer permit  
25 [~~notice and approval of the sale or shipment of white-tailed deer~~  
26 ~~and mule deer~~] under this section.

27           Sec. 43.364. USE OF [~~PURCHASED WHITE-TAILED~~] DEER [~~AND MULE~~

1 ~~DEER~~. Deer [~~white-tailed deer and mule deer~~] may be purchased,  
 2 sold, transferred, or received in this state only for the purposes  
 3 [~~purpose~~] of liberation [~~for stocking purposes~~] or holding for  
 4 propagation [~~purposes~~]. All [~~white-tailed~~] deer [~~or mule deer~~] and  
 5 increase from [~~the white-tailed~~] deer [~~or mule deer~~] are under the  
 6 full force of the laws of this state pertaining to [~~white-tailed~~]  
 7 deer [~~and mule deer~~], and those deer may be held in captivity for  
 8 propagation in this state only after a deer [~~scientific~~] breeder's  
 9 permit is issued by the department under this subchapter.

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

12 (1) takes, traps, or captures [~~or attempts to take,~~  
 13 ~~trap, or capture white-tailed~~] deer [~~or mule deer~~] from the wild for  
 14 possession or holding;

15 (2) allows the hunting or killing of a [~~white-tailed~~]  
 16 deer [~~or mule deer~~] held in captivity in a facility permitted under  
 17 [~~the provisions of~~] this subchapter, except as provided by this  
 18 subchapter or a rule adopted by the commission under and not  
 19 inconsistent with this subchapter; or

20 (3) knowingly sells, arranges the sale of, purchases,  
 21 transfers, receives, or attempts to sell, arrange the sale of,  
 22 purchase, transfer, or receive a live deer in violation of this  
 23 subchapter or a rule adopted by the commission under and not  
 24 inconsistent with this subchapter.

25 (b) It is an offense if a deer breeder fails to furnish to a  
 26 game warden commissioned by the department or other department  
 27 employee specified by the game warden records for the current



1 reporting year required to be maintained under Section 43.359(a).

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

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

11       Sec. 43.367. PENALTY. A person who violates a provision of  
12 this subchapter [~~, the conditions of a permit,~~] or a regulation of  
13 the commission issued under and not inconsistent with this  
14 subchapter or who fails to file a full and complete report as  
15 required by Section 43.359 [~~of this code~~] commits an offense that is  
16 a Class C Parks and Wildlife Code misdemeanor.

17       Sec. 43.368. DEER BREEDER USER GROUP. (a) The deer breeder  
18 user group is composed of nine members.

19       (b) Each member of the user group must hold a deer breeder's  
20 permit under this chapter. Members are appointed as follows:

21               (1) three members appointed by the governor;

22               (2) three members appointed by the lieutenant  
23 governor; and

24               (3) three members appointed by the speaker of the  
25 house of representatives.

26       (c) The user group may hold hearings and receive public  
27 testimony at those hearings.

1       (d) The user group shall:

2           (1) analyze testimony received at hearings;

3           (2) based on that analysis, recommend to the  
4 commission strategies for deer breeding that enhance:

5                   (A) the health, safety, habitat, and environment  
6 of deer;

7                   (B) the regulation of deer by the department; and

8                   (C) the identification, possession, dispatch,  
9 release, transfer, transport, sale, purchase, shipment, holding,  
10 and breeding of deer;

11           (3) develop and recommend to the commission deer  
12 breeding guidelines that are consistent with this subchapter;

13           (4) review proposed legislation that affects deer  
14 breeding;

15           (5) review budget issues and establish budget  
16 priorities pertaining to deer breeding;

17           (6) review state statutes and department rules  
18 pertaining to deer breeding;

19           (7) review all agency rulemaking authority pertaining  
20 to deer breeding; and

21           (8) develop recommendations and suggest changes to the  
22 commission based on the reviews conducted under Subdivisions (4)  
23 through (7).

24       (e) Members of the user group serve three-year terms. If a  
25 vacancy occurs in the user group, the person who appointed the  
26 vacating member shall appoint a replacement member for the  
27 unexpired term. The replacement must be qualified to serve as a

1 member of the user group.

2 (f) The user group may adopt rules as necessary to carry out  
3 the group's duties under this section.

4 (g) The user group reports to the commission.

5 (h) Department employees shall provide staff services for  
6 the user group.

7 (i) Section 2110.002, Government Code, does not apply to the  
8 user group.

9 SECTION 3. Sections 43.354 and 43.355, Parks and Wildlife  
10 Code, are repealed.

11 SECTION 4. Not later than January 1, 2008, the governor, the  
12 lieutenant governor, and the speaker of the house of  
13 representatives shall each appoint three members to the deer  
14 breeder user group established under Section 43.368, Parks and  
15 Wildlife Code, as added by this Act.

16 SECTION 5. (a) Section 43.356(b), Parks and Wildlife Code,  
17 as amended by this Act, takes effect January 1, 2008, and applies  
18 only to deer born to or acquired by a deer breeder after December  
19 31, 2007.

20 (b) Except as provided by Subsection (c) of this section, a  
21 deer born or acquired on or before December 31, 2007, is covered by  
22 the law in effect when the deer is born or acquired, and the former  
23 law is continued in effect for that purpose.

24 (c) The former requirement under Section 43.362(c), Parks  
25 and Wildlife Code, before amendment by this Act, to remove all  
26 markings required under Section 43.356(b) of that code before  
27 releasing the marked deer into the wild may not be enforced by the

1 department after the effective date of this Act.

2 SECTION 6. This Act takes effect September 1, 2007.