

By: Phillips

H.B. No. 1614

A BILL TO BE ENTITLED

AN ACT

relating to the management, breeding, and destruction of deer and to procedures regarding certain deer permits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 12.501(b), Parks and Wildlife Code, is amended to read as follows:

(b) Except as provided by Subchapter G, the ~~The~~ director may suspend or revoke an original or renewal permit or license issued under this code if it is found, after notice and hearing, that:

(1) the permittee or licensee has been finally convicted of a violation of this code or proclamation or regulation adopted under this code relating to the permit or license to be suspended or revoked;

(2) the permittee or licensee violated a provision of this code or proclamation or regulation adopted under this code relating to the permit or license to be suspended or revoked;

(3) the permittee or licensee made a false or misleading statement in connection with the permittee's or licensee's ~~his~~ original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission or its officers or employees;

(4) the permittee or licensee is indebted to the state

1 for taxes, fees, or payment of penalties imposed by this code or by  
2 a commission rule relating to a permit or license to be suspended or  
3 revoked; or

4 (5) the permittee or licensee is liable to the state  
5 under Section 12.301.

6 SECTION 2. Section 12.506, Parks and Wildlife Code, is  
7 amended by adding Subsection (c) to read as follows:

8 (c) This section does not apply to a permit to which  
9 Subchapter G applies.

10 SECTION 3. Section 12.508(b), Parks and Wildlife Code, is  
11 amended to read as follows:

12 (b) Except as provided by Subchapter G, the [The] department  
13 may refuse to issue or transfer an original or renewal license,  
14 permit, or tag if the applicant or transferee:

15 (1) has been finally convicted of a violation under  
16 this code or a rule adopted or a proclamation issued under this  
17 code;

18 (2) is liable to the state under Section 12.301; and

19 (3) has failed to fully pay the amount due under  
20 Section 12.301 after the department has issued notice of liability  
21 to the applicant or transferee.

22 SECTION 4. Chapter 12, Parks and Wildlife Code, is amended  
23 by adding Subchapter G to read as follows:

24 SUBCHAPTER G. REFUSAL TO ISSUE OR RENEW CERTAIN PERMITS RELATING TO  
25 THE CONTROL, BREEDING, OR MANAGEMENT OF DEER; APPEAL OF CERTAIN  
26 DECISIONS

27 Sec. 12.601. APPLICABILITY OF SUBCHAPTER. This subchapter

1 applies only to the following permits:

2 (1) a trap, transport, and transplant permit under  
3 Section 43.061 or 43.0611;

4 (2) a trap, transport, and process permit under  
5 Section 43.0612;

6 (3) a deer breeder's permit under Subchapter L,  
7 Chapter 43;

8 (4) a white-tailed deer management permit under  
9 Subchapter R, Chapter 43; and

10 (5) a mule deer management permit under Subchapter  
11 R-1, Chapter 43.

12 Sec. 12.602. DEFINITIONS. In this subchapter:

13 (1) "Applicant" means a person who has applied for a  
14 new or renewal permit.

15 (2) "Final conviction" means a final judgment of  
16 guilt, the granting of deferred adjudication or pretrial diversion,  
17 or the entering of a plea of guilty or nolo contendere.

18 (3) "Permittee" means a person to whom a permit has  
19 been issued, including each member of a partnership or association,  
20 an agent acting on behalf of a partnership or association, each  
21 officer of a corporation, and the owner of a majority of a  
22 corporation's corporate stock.

23 Sec. 12.603. GENERAL CIRCUMSTANCES FOR REFUSAL TO ISSUE OR  
24 RENEW PERMIT. The department may refuse to issue or renew a permit  
25 if the applicant fails to submit in a timely manner the following:

26 (1) a completed application on a form supplied by the  
27 department and all application materials required by the

1 department;

2 (2) the required permit fee;

3 (3) accurate reports as applicable; and

4 (4) any additional information that the department  
5 determines is necessary to process the application.

6 Sec. 12.604. REFUSAL TO ISSUE OR RENEW PERMIT BASED ON  
7 CERTAIN PENALTIES OR CONVICTIONS. (a) This section applies only to  
8 a determination of whether to issue a permit to or renew a permit  
9 for an applicant who has a final conviction or has been assessed an  
10 administrative penalty for a violation of:

11 (1) Subchapter C, E, L, R, or R-1, Chapter 43;

12 (2) a provision of this code not described by  
13 Subdivision (1) that is punishable as a Class A or B Parks and  
14 Wildlife Code misdemeanor, a Parks and Wildlife Code state jail  
15 felony, or a Parks and Wildlife Code felony;

16 (3) Section 63.002; or

17 (4) the Lacey Act (16 U.S.C. Sections 3371-3378).

18 (b) In determining whether to issue a permit to or renew a  
19 permit for an applicant who has a final conviction or has been  
20 assessed an administrative penalty, the department shall consider:

21 (1) the number of convictions or administrative  
22 penalties and the seriousness of each conviction;

23 (2) the existence, number, and seriousness of offenses  
24 or violations other than offenses or violations that resulted in a  
25 final conviction or administrative penalty described by Subsection  
26 (a);

27 (3) the length of time between the most recent final

- 1 conviction or administrative penalty and the permit application;  
2 (4) whether the final conviction, administrative  
3 penalty, or other offense or violation was the result of negligence  
4 or intentional conduct;  
5 (5) the applicant's efforts toward rehabilitation;  
6 (6) the accuracy of the permit history information  
7 provided by the applicant; and  
8 (7) other mitigating factors.

9 Sec. 12.605. PROCEDURE FOR REFUSAL TO ISSUE OR RENEW  
10 PERMIT. (a) Not later than the 10th day after the date a decision  
11 to refuse to issue or renew a permit has been made, the department  
12 shall provide to the applicant a written statement of the reasons  
13 for the decision.

14 (b) The commission by rule shall adopt procedures  
15 consistent with this subchapter for the department's review of a  
16 refusal to issue or renew a permit.

17 Sec. 12.606. REVIEW OF REFUSAL TO ISSUE OR RENEW PERMIT. In  
18 conducting a review of a decision by the department to refuse to  
19 issue or renew a permit, the department shall consider:

20 (1) whether the conduct on which the refusal is based  
21 was negligent or intentional;

22 (2) for a refusal based on conduct that is a violation  
23 of a provision listed in Section 12.604(a), whether the applicant  
24 has a final conviction or has been assessed an administrative  
25 penalty based on the conduct;

26 (3) the seriousness of an offense or violation  
27 described by Subdivision (2) for which the applicant was finally

1 convicted or assessed an administrative penalty;

2 (4) whether the conduct on which the refusal was based  
3 was committed or omitted by the applicant, an agent of the  
4 applicant, or both;

5 (5) for a renewal, whether the applicant agreed to any  
6 special conditions recommended by the department in lieu of a  
7 decision to refuse to issue or renew the expiring permit;

8 (6) whether there is a substantial likelihood that the  
9 applicant would repeat the conduct on which the refusal is based;

10 (7) whether the conduct on which the refusal is based  
11 involved a threat to public safety; and

12 (8) other mitigating factors.

13 Sec. 12.607. APPEAL OF DEPARTMENT DECISION TO REVOKE,  
14 SUSPEND, OR REFUSE PERMIT. (a) Except as provided by this section,  
15 the revocation or suspension of a permit is governed by Subchapter  
16 F.

17 (b) Venue to appeal a decision of the department refusing to  
18 issue or renew a permit or revoking or suspending a permit is a  
19 district court in:

20 (1) the county where the permitted facility, if  
21 applicable, is located;

22 (2) the county where the permittee resides; or

23 (3) Travis County.

24 (c) The appeal shall be by trial de novo.

25 SECTION 5. Section 43.351, Parks and Wildlife Code, is  
26 amended by adding Subdivision (8) to read as follows:

27 (8) "Animal health commission" means the Texas Animal

1 Health Commission.

2 SECTION 6. Section 43.352(b), Parks and Wildlife Code, is  
3 amended to read as follows:

4 (b) At the option of the person applying for the issuance or  
5 renewal of a permit under this section, the ~~[The]~~ department may  
6 issue a permit ~~[under this section]~~ that is valid for ~~[longer than]~~  
7 one year, three years, or five years. A three-year or five-year  
8 permit is available only to a person who agrees to submit the annual  
9 reports required under this subchapter electronically. The  
10 commission may adopt rules allowing the department to terminate a  
11 permit before the date originally specified for the permit issuance  
12 or renewal if the permit holder fails to submit the annual reports  
13 electronically as required for a three-year or five-year permit.

14 SECTION 7. Subchapter L, Chapter 43, Parks and Wildlife  
15 Code, is amended by adding Sections 43.3591, 43.3661, 43.370,  
16 43.371, and 43.372 to read as follows:

17 Sec. 43.3591. GENETIC TESTING. (a) In this section:

18 (1) "DNA" means deoxyribonucleic acid.

19 (2) "Genetic test" means a laboratory analysis of a  
20 deer's genes, gene products, or chromosomes that:

21 (A) analyzes the deer's DNA, RNA, proteins, or  
22 chromosomes; and

23 (B) is performed to determine genetically the  
24 deer's ancestral lineage or descendants.

25 (3) "RNA" means ribonucleic acid.

26 (b) After an inspection, the department shall notify a deer  
27 breeder in writing when the department has reason to believe the

1 deer breeder possesses deer that may pose a disease risk to other  
2 deer. The notice must include an explanation of the rationale used  
3 to establish the disease risk.

4 (c) If genetic testing is timely conducted, the department  
5 must postpone any actions that may be affected by the test results  
6 until the test results are available.

7 (d) The results of genetic testing may not be used as  
8 evidence to establish a defense against a fine imposed on a deer  
9 breeder found guilty of failure to keep records of all deer in a  
10 deer breeder facility as required by this subchapter.

11 Sec. 43.3661. RULES. The commission may adopt rules as  
12 needed to implement this subchapter.

13 Sec. 43.370. DESTRUCTION OF DEER. (a) To control or  
14 prevent the spread of disease, deer held at a deer breeding facility  
15 may be destroyed only if:

16 (1) an agent of the animal health commission has  
17 conducted an epidemiological assessment;

18 (2) based on the assessment under Subdivision (1), the  
19 executive director of the animal health commission determines that  
20 the deer pose a threat to the health of other deer or other species,  
21 including humans; and

22 (3) the executive director of the animal health  
23 commission orders the destruction of the deer.

24 (b) The animal health commission shall provide written  
25 notification of an order to destroy deer to:

26 (1) the department; and

27 (2) the applicable deer breeder as provided by Section



1 43.371.

2 (c) The department shall carry out an order to destroy deer  
3 after notice has been provided to the applicable deer breeder. The  
4 destruction must be conducted in the presence of and under the  
5 direction of animal health commission officials.

6 Sec. 43.371. NOTICE OF DEER DESTRUCTION. (a) The animal  
7 health commission must provide notice to a deer breeder before the  
8 department may destroy any of the deer held at the deer breeder's  
9 facility.

10 (b) A notice provided under this section must be sent by  
11 certified mail to the last known address of the deer breeder and  
12 must contain:

13 (1) the date of destruction, which may not be sooner  
14 than the 10th day after the date of the notice;

15 (2) an explanation of any access restrictions imposed  
16 on the deer breeder's facility during the destruction of the deer;  
17 and

18 (3) an explanation of the reasons for the destruction.

19 Sec. 43.372. COST RECOVERY. The deer breeder shall pay to  
20 the department all costs associated with the epidemiological  
21 assessment and destruction of deer under this subchapter. The  
22 department and the animal health commission shall divide the  
23 payment to cover the costs incurred by each agency in carrying out  
24 their respective duties under this subchapter.

25 SECTION 8. Subchapter R, Chapter 43, Parks and Wildlife  
26 Code, is amended by adding Sections 43.6011, 43.608, 43.609, and  
27 43.610 to read as follows:

1       Sec. 43.6011. DEFINITION. In this subchapter, "animal  
2 health commission" means the Texas Animal Health Commission.

3       Sec. 43.608. DESTRUCTION OF DEER. (a) To control or  
4 prevent the spread of disease, deer on acreage covered by a permit  
5 issued under this subchapter may be destroyed only if:

6           (1) an agent of the animal health commission has  
7 conducted an epidemiological assessment;

8           (2) based on the assessment under Subdivision (1), the  
9 executive director of the animal health commission determines that  
10 the deer pose a threat to the health of other deer or other species,  
11 including humans; and

12           (3) the executive director of the animal health  
13 commission orders the destruction of the deer.

14       (b) The animal health commission shall provide written  
15 notification of an order to destroy deer to:

16           (1) the department; and

17           (2) the applicable permit holder as provided by  
18 Section 43.609.

19       (c) The department shall carry out an order to destroy deer  
20 after notice has been provided to the applicable permit holder. The  
21 destruction must be conducted in the presence of and under the  
22 direction of animal health commission officials.

23       Sec. 43.609. NOTICE OF DEER DESTRUCTION. (a) The animal  
24 health commission must provide notice to a permit holder before the  
25 department may destroy any of the deer covered by the permit.

26       (b) A notice provided under this section must be sent by  
27 certified mail to the last known address of the permit holder and

1 must contain:

2 (1) the date of destruction, which may not be sooner  
3 than the 10th day after the date of the notice;

4 (2) an explanation of any access restrictions imposed  
5 on the acreage covered by the permit during the destruction of the  
6 deer; and

7 (3) an explanation of the reasons for the destruction.

8 Sec. 43.610. COST RECOVERY. The permit holder shall pay to  
9 the department all costs associated with the epidemiological  
10 assessment and destruction of deer under this subchapter. The  
11 department and the animal health commission shall divide the  
12 payment to cover the costs incurred by each agency in carrying out  
13 their respective duties under this subchapter.

14 SECTION 9. Subchapter R-1, Chapter 43, Parks and Wildlife  
15 Code, is amended by adding Sections 43.6211, 43.628, 43.629, and  
16 43.630 to read as follows:

17 Sec. 43.6211. DEFINITION. In this subchapter, "animal  
18 health commission" means the Texas Animal Health Commission.

19 Sec. 43.628. DESTRUCTION OF DEER. (a) To control or  
20 prevent the spread of disease, deer on acreage covered by a permit  
21 issued under this subchapter may be destroyed only if:

22 (1) an agent of the animal health commission has  
23 conducted an epidemiological assessment;

24 (2) based on the assessment under Subdivision (1), the  
25 executive director of the animal health commission determines that  
26 the deer pose a threat to the health of other deer or other species,  
27 including humans; and

1           (3) the executive director of the animal health  
2 commission orders the destruction of the deer.

3           (b) The animal health commission shall provide written  
4 notification of an order to destroy deer to:

5                 (1) the department; and

6                 (2) the applicable permit holder as provided by  
7 Section 43.629.

8           (c) The department shall carry out an order to destroy deer  
9 after notice has been provided to the applicable permit holder. The  
10 destruction must be conducted in the presence of and under the  
11 direction of animal health commission officials.

12           Sec. 43.629. NOTICE OF DEER DESTRUCTION. (a) The animal  
13 health commission must provide notice to a permit holder before the  
14 department may destroy any of the deer covered by the permit.

15           (b) A notice provided under this section must be sent by  
16 certified mail to the last known address of the permit holder and  
17 must contain:

18                 (1) the date of destruction, which may not be sooner  
19 than the 10th day after the date of the notice;

20                 (2) an explanation of any access restrictions imposed  
21 on the acreage covered by the permit during the destruction of the  
22 deer; and

23                 (3) an explanation of the reasons for the destruction.

24           Sec. 43.630. COST RECOVERY. The permit holder shall pay to  
25 the department all costs associated with the epidemiological  
26 assessment and destruction of deer under this subchapter. The  
27 department and the animal health commission shall divide the

1 payment to cover the costs incurred by each agency in carrying out  
2 their respective duties under this subchapter.

3 SECTION 10. (a) Except as provided by Subsection (b) of  
4 this section, Subchapter G, Chapter 12, Parks and Wildlife Code, as  
5 added by this Act, applies only to a permit that is issued or  
6 renewed on or after the effective date of this Act. A permit issued  
7 or renewed before the effective date of this Act is governed by the  
8 law as it existed immediately before the effective date of this Act,  
9 and that law is continued in effect for that purpose.

10 (b) Section 12.607, Parks and Wildlife Code, as added by  
11 this Act, applies only to an appeal of a decision of the Parks and  
12 Wildlife Department refusing to issue or renew a permit or revoking  
13 or suspending a permit that is filed on or after the effective date  
14 of this Act. An appeal filed before the effective date of this Act  
15 is governed by the law in effect on the date the appeal was filed,  
16 and that law is continued in effect for that purpose.

17 SECTION 11. Section 43.3591(d), Parks and Wildlife Code, as  
18 added by this Act, applies only to an offense committed on or after  
19 the effective date of this Act. An offense committed before the  
20 effective date of this Act is governed by the law in effect on the  
21 date the offense was committed, and the former law is continued in  
22 effect for that purpose. For purposes of this section, an offense  
23 was committed before the effective date of this Act if any element  
24 of the offense occurred before that date.

25 SECTION 12. This Act takes effect September 1, 2013.