

By: Kuempel

H.B. No. 2092

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the transfer of responsibility for regulating deer
3 breeding from the Parks and Wildlife Department to the Texas Animal
4 Health Commission.

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

6 SECTION 1. Subchapter L, Chapter 43, Parks and Wildlife
7 Code, is transferred to Subtitle A, Title 6, Agriculture Code,
8 redesignated as Chapter 135, Agriculture Code, and amended to read
9 as follows:

10 CHAPTER 135 [~~SUBCHAPTER L~~]. DEER BREEDER'S PERMIT

11 Sec. 135.001 [~~43.351~~]. DEFINITIONS. In this chapter
12 [~~subchapter~~]:

13 (1) "Breeder deer" means a white-tailed deer or mule
14 deer legally held under a permit authorized by this chapter
15 [~~subchapter~~].

16 (2) "Deer breeder" means a person holding a valid deer
17 breeder's permit.

18 (3) "Captivity" means the keeping of a breeder deer in
19 an enclosure suitable for and capable of retaining the breeder deer
20 it is designed to retain at all times under reasonable and ordinary
21 circumstances and to prevent entry by another deer. The term
22 includes the temporary keeping of a breeder deer in a vehicle or
23 trailer.

24 (3-a) "Commission" means the Texas Animal Health

1 Commission.

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

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

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

12 (7) "Transfer" means any movement of breeder deer from
13 a breeder facility, a nursing facility, or a deer management permit
14 facility other than to an accredited veterinarian for medical
15 purposes.

16 Sec. 135.002 [~~43.352~~]. PERMIT AUTHORIZED; DURATION OF
17 PERMIT. (a) The commission [~~department~~] shall issue a permit to a
18 qualified person to possess live breeder deer in captivity.

19 (b) The commission [~~department~~] may issue a permit under
20 this section that is valid for longer than one year.

21 Sec. 135.003 [~~43.353~~]. PERMIT IS DEFENSE. In any
22 prosecution for the unlawful possession or transportation of
23 [~~white-tailed deer or mule~~] deer, the possession of a permit issued
24 under this chapter [~~subchapter~~] to the accused is a complete
25 defense if the conduct was authorized under the terms of the permit.

26 Sec. 135.004 [~~43.356~~]. SERIAL NUMBER. The commission
27 [~~department~~] shall issue a serial number to a permittee when the

1 commission [~~department~~] issues the permittee a deer breeder's
2 permit. The same serial number shall be assigned to the permittee
3 if the commission [~~department~~] issues the permittee a subsequent
4 deer breeder's permit.

5 Sec. 135.005 [~~43.3561~~]. IDENTIFICATION OF BREEDER DEER.

6 (a) Not later than March 31 of the year following the year in which
7 the breeder deer is born, a breeder deer held in a permitted deer
8 breeding facility must be identified by placing on each breeder
9 deer possessed by the deer breeder a single, reasonably visible,
10 durable identification tag bearing an alphanumeric number of not
11 more than four characters assigned by the commission [~~department~~]
12 to the breeding facility in which the breeder deer was born and
13 unique to that breeder deer. A deer breeder is not required to
14 remove the tag for any purpose but may remove the tag and replace
15 the tag immediately to meet the requirements of this section.

16 (b) A person may not remove or knowingly permit the removal
17 of a breeder deer held in a facility by a permittee under this
18 chapter [~~subchapter~~] unless the breeder deer has been permanently
19 and legibly tattooed in one ear with the unique identification
20 number assigned to the breeder in lawful possession of the breeder
21 deer and specific to the breeding facility in which the breeder deer
22 was born or initially introduced if from an out-of-state source.

23 (c) A person may not knowingly accept or permit the
24 acceptance of a breeder deer into a facility regulated under this
25 chapter [~~subchapter~~] unless the breeder deer has been permanently
26 and legibly tattooed in one ear with the unique identification
27 number assigned to the breeder in lawful possession of the breeder

1 deer and specific to the facility in which the breeder deer was born
2 or initially introduced if from an out-of-state source.

3 Sec. 135.006 [~~43.357~~]. PERMIT PRIVILEGES; REGULATIONS.

4 (a) The holder of a valid deer breeder's permit may:

5 (1) engage in the business of breeding breeder deer in
6 the immediate locality for which the permit was issued; and

7 (2) sell, transfer to another person, or hold in
8 captivity live breeder deer for the purpose of propagation or sale.

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

14 (1) removal from an enclosure;

15 (2) veterinary treatment;

16 (3) tagging;

17 (4) euthanasia for the purpose of:

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

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

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

22 (b) The commission may make regulations governing:

23 (1) the possession of breeder deer held under the
24 authority of this chapter [~~subchapter~~];

25 (2) the recapture of lawfully possessed breeder deer
26 that have escaped from the facility of a deer breeder;

27 (3) permit applications and fees;

- 1 (4) reporting requirements;
- 2 (5) procedures and requirements for the purchase,
3 transfer, sale, or shipment of breeder deer;
- 4 (6) the endorsement of a deer breeder facility by a
5 certified wildlife biologist;
- 6 (7) the number of breeder deer that a deer breeder may
7 possess; and
- 8 (8) the dates for which a deer breeder permit is valid.

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

18 (d) Subsection (c) does not exempt a person from the
19 requirements under the following permits issued by the Parks and
20 Wildlife Department [~~department~~]:

- 21 (1) managed land deer permit regulated under 31 T.A.C.
22 Sections 65.26 and 65.34;
- 23 (2) deer management permit under Section 43.601, Parks
24 and Wildlife Code;
- 25 (3) trap, transport, and transplant permit under
26 Sections 43.061 and 43.0611, Parks and Wildlife Code;
- 27 (4) trap, transport, and process permit under Section

1 43.0612, Parks and Wildlife Code; and

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

4 Sec. 135.007 [~~43.358~~]. INSPECTION. An authorized employee
5 of the commission [~~department~~] may inspect at any time and without
6 warrant:

7 (1) any pen, coop, or enclosure holding [~~white-tailed~~
8 ~~deer or mule~~] deer; or

9 (2) any records required to be maintained under
10 Section 135.008(a) [~~43.359(a)~~].

11 Sec. 135.008 [~~43.359~~]. RECORDS AND REPORTS. (a) A deer
12 breeder shall maintain an accurate and legible record of all
13 breeder deer acquired, purchased, propagated, sold, transferred,
14 or disposed of and any other information required by the commission
15 [~~department~~] that reasonably relates to the regulation of deer
16 breeders.

17 (b) A deer breeder shall report the information maintained
18 under Subsection (a) to the commission [~~department~~] as the
19 commission by rule may require.

20 (c) On the request of an authorized commission employee [~~a~~
21 ~~game warden~~] acting within the scope of the employee's [~~game~~
22 ~~warden's~~] authority, a deer breeder shall make any information
23 required under this chapter [~~subchapter~~] for the previous two
24 reporting years available to the commission [~~+~~

25 [~~(1) the game warden, or~~

26 [~~(2) another authorized department~~] employee.

27 Sec. 135.009 [~~43.360~~]. ENCLOSURE SIZE. A single enclosure

1 for breeder deer may not contain more than 100 acres.

2 Sec. 135.010 [~~43.362~~]. TRANSFER, PURCHASE, OR SALE OF LIVE
3 BREEDER DEER. (a) Only breeder deer that are in a healthy
4 condition may be sold, transferred, bartered, or exchanged, or
5 offered for sale, transfer, barter, or exchange, by a deer breeder.

6 (b) Except as provided by Subchapter C, Chapter 43, Parks
7 and Wildlife Code, or by a rule adopted by the commission under this
8 chapter [~~subchapter~~], no person may purchase, obtain, sell,
9 transfer, or accept in this state a live breeder deer unless the
10 person obtains a transfer permit from the commission [~~department~~].

11 Sec. 135.011 [~~43.363~~]. TRANSFER DURING OPEN SEASON. (a)
12 During an open hunting season for deer or during the 10-day period
13 immediately preceding an open hunting season, no person in this
14 state may sell, transfer, ship, or transport a breeder deer unless
15 the person:

16 (1) has removed the antlers of the breeder deer
17 between the G-3 tine, as defined by the Boone and Crockett Club, and
18 the pedicel on each antler main beam; and

19 (2) has followed any procedure prescribed by rule of
20 the commission for the lawful conduct of activities under this
21 chapter [~~subchapter~~].

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

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

25 (2) to an enclosure authorized under a deer management
26 permit issued by the Parks and Wildlife Department.

27 (c) The commission shall adopt rules governing a transfer

1 permit under this section.

2 Sec. 135.012 [~~43.364~~]. USE OF BREEDER DEER. Breeder deer
3 may be purchased, sold, transferred, or received in this state only
4 for the purposes of liberation or holding for propagation. All
5 breeder deer and increase from breeder deer are under the full force
6 of the laws of this state pertaining to deer, and those breeder deer
7 may be held in captivity for propagation in this state only after a
8 deer breeder's permit is issued by the commission [~~department~~]
9 under this chapter [~~subchapter~~].

10 Sec. 135.013 [~~43.365~~]. PROHIBITED ACTS. (a) It is an
11 offense if a deer breeder or another person:

12 (1) allows the hunting or killing of a breeder deer or
13 any other deer held in captivity in a facility permitted under this
14 chapter [~~subchapter~~], except as provided by this chapter
15 [~~subchapter~~] or a rule adopted by the commission under this chapter
16 [~~subchapter~~]; or

17 (2) knowingly sells, arranges the sale of, purchases,
18 transfers, receives, or attempts to sell, arrange the sale of,
19 purchase, transfer, or receive a live breeder deer in violation of
20 this chapter [~~subchapter~~] or a rule adopted by the commission under
21 this chapter [~~subchapter~~].

22 (b) It is an offense if a deer breeder fails to furnish to an
23 [~~a game warden commissioned by the department or other~~] authorized
24 commission [~~department~~] employee records for the previous two
25 reporting years required to be maintained under Section 135.008(a)
26 [~~43.359(a)~~].

27 Sec. 135.014 [~~43.366~~]. APPLICATION OF OTHER LAWS. (a) In

1 order that native species may be preserved, breeder deer held under
2 a deer breeder's permit are subject to all laws and regulations of
3 this state pertaining to deer except as specifically provided in
4 this chapter [~~subchapter~~].

5 (b) This chapter [~~subchapter~~] may not be construed to
6 restrict or prohibit the use of high fences.

7 Sec. 135.015 [~~43.367~~]. PENALTY. (a) Except as provided by
8 Subsection (b), a person who violates a provision of this chapter
9 [~~subchapter~~] or a regulation of the commission issued under this
10 chapter [~~subchapter~~] or who fails to file a full and complete report
11 as required by Section 135.008 [~~43.359~~] commits an offense that is a
12 Class C [~~Parks and Wildlife Code~~] misdemeanor.

13 (b) A person who violates Section 135.013(a)(1)
14 [~~43.365(a)(1)~~] commits an offense that is a Class A [~~Parks and~~
15 ~~Wildlife Code~~] misdemeanor.

16 Sec. 135.016 [~~43.369~~]. DEER BREEDER DATABASE. (a) In this
17 section, "database" means a deer breeder database used by the
18 commission [~~department~~].

19 (b) The commission [~~department in conjunction with the~~
20 ~~Texas Animal Health Commission, not later than June 1, 2010,~~] shall
21 [~~develop and~~] maintain a [~~process for a~~] database that includes [~~to~~
22 ~~be shared by both agencies. The database must include~~] the
23 reporting data required to be provided by each deer breeder [+

24 [~~(1)~~] to the commission [~~department~~] under this
25 chapter [~~subchapter, and~~

26 [~~(2) to the Texas Animal Health Commission~~].

27 (c) [~~To the extent possible, the department and the Texas~~

1 ~~Animal Health Commission shall share the database to eliminate the~~
2 ~~need for a deer breeder to submit duplicate reports to the two~~
3 ~~agencies.~~

4 ~~[(d)]~~ The commission ~~[Parks and Wildlife Commission and the~~
5 ~~Texas Animal Health Commission]~~, by rule, shall provide incentives
6 to deer breeders whose cooperation results in reduced costs and
7 increased efficiency by offering:

8 (1) reduced fees for the deer breeder permit; and

9 (2) a permit with an extended duration.

10 (d) ~~[(e)]~~ The commission ~~[Parks and Wildlife Commission and~~
11 ~~the Texas Animal Health Commission]~~ may adopt rules to implement
12 this section.

13 SECTION 2. (a) On January 1, 2014, the following are
14 transferred to the Texas Animal Health Commission:

15 (1) all powers, duties, obligations, and liabilities
16 of the Parks and Wildlife Department relating to:

17 (A) the issuance of deer breeder's permits; and

18 (B) the maintenance and operation of the deer
19 breeder database under Section 43.369, Parks and Wildlife Code, as
20 that section existed before the effective date of this Act;

21 (2) all unobligated and unexpended funds appropriated
22 to the Parks and Wildlife Department designated for the
23 administration of Subchapter L, Chapter 43, Parks and Wildlife
24 Code;

25 (3) all equipment and property of the Parks and
26 Wildlife Department used for the administration of Subchapter L,
27 Chapter 43, Parks and Wildlife Code; and

1 (4) all files and other records of the Parks and
2 Wildlife Department kept by the department regarding deer breeder's
3 permits.

4 (b) A rule adopted by the Parks and Wildlife Department that
5 is in effect immediately before January 1, 2014, and that relates to
6 deer breeder's permits is, on January 1, 2014, a rule of the Texas
7 Animal Health Commission and remains in effect until amended or
8 repealed by the Texas Animal Health Commission.

9 (c) Before January 1, 2014, the Parks and Wildlife
10 Department may agree with the Texas Animal Health Commission to
11 transfer any property of the Parks and Wildlife Department to the
12 Texas Animal Health Commission to implement the transfer required
13 by this Act.

14 (d) In the period beginning on the effective date of this
15 Act and ending on January 1, 2014, the Parks and Wildlife Department
16 shall continue to perform functions and activities under Subchapter
17 L, Chapter 43, Parks and Wildlife Code, as if that subchapter had
18 not been amended by this Act, and the former law is continued in
19 effect for that purpose.

20 SECTION 3. (a) A person who holds a deer breeder's permit
21 issued by the Parks and Wildlife Department that is in effect on the
22 effective date of this Act holds a deer breeder's permit under
23 Chapter 135, Agriculture Code, as added by this Act, that expires on
24 March 31, 2014.

25 (b) Before March 31, 2014, the Texas Animal Health
26 Commission may not use a different numbering system than that used
27 by the Parks and Wildlife Department under Section 43.356, Parks

1 and Wildlife Code, as that section existed before the effective
2 date of this Act, for assigning serial numbers under Chapter 135,
3 Agriculture Code, as added by this Act.

4 SECTION 4. The change in law made by this Act applies only
5 to an offense committed on or after the effective date of this Act.
6 An offense committed before the effective date of this Act is
7 governed by the law in effect on the date the offense was committed,
8 and the former law is continued in effect for that purpose. For
9 purposes of this section, an offense was committed before the
10 effective date of this Act if any element of the offense occurred
11 before that date.

12 SECTION 5. This Act takes effect September 1, 2013.