

SUBCHAPTER L. DEER BREEDER'S PERMIT

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) "Deer breeder" means a person holding a valid deer breeder's permit.
- (3) "Captivity" means the keeping of a breeder deer in an enclosure suitable for and capable of retaining the breeder deer it is designed to retain at all times under reasonable and ordinary circumstances and to prevent entry by another deer. 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 likely to disintegrate or decompose. The term includes, but is not limited to, newly developed technologies, including radio frequency identification tags.
- (6) "Immediate locality" means land that is contiguous and that is owned by the same person. For purposes of this subdivision, land divided or separated only by a public road or a public waterway is contiguous.
- (7) "Transfer" means any movement of breeder deer from a breeder facility, a nursing facility, or a deer management permit facility other than to an accredited veterinarian for medical purposes.

Sec. 43.352. PERMIT AUTHORIZED; DURATION OF PERMIT. (a) The department shall issue a permit to a qualified person to possess live breeder deer in captivity.

(b) At the option of the person applying for the issuance or renewal of a permit under this section, the department may issue a permit that is valid for one year, three years, or five years.

(c) A three-year or five-year permit is available only to a person who:

- (1) has held a deer breeder's permit for the three consecutive permit years immediately preceding the date of the application for a three-year or five-year permit;
- (2) agrees to submit the annual reports required under this subchapter electronically; and
- (3) meets any other criteria established by rule of the commission.

(d) The commission may adopt rules allowing the department to revoke a three-year or five-year permit before the date specified for expiration of the permit if the permit holder fails to submit the annual reports electronically as required.

Sec. 43.353. PERMIT IS DEFENSE. In any prosecution for the unlawful possession or transportation of white-tailed deer or mule deer, the possession of a permit issued under this subchapter to the accused is a complete defense if the conduct was authorized under the terms of the permit.

Sec. 43.358. INSPECTION. An authorized employee of the department may inspect at any time and without warrant:

- (1) any pen, coop, or enclosure holding white-tailed deer or mule deer; or
- (2) any records required to be maintained under Section 43.359(a).

Sec. 43.359. RECORDS AND REPORTS. (a) A deer breeder shall maintain an accurate and legible record of all breeder deer acquired, purchased, propagated, sold, transferred, or disposed of and any other information required by the department that reasonably relates to the regulation of deer breeders.

(b) A deer breeder shall report the information maintained under Subsection (a) to the department as the commission by rule may require.

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

- (1) the game warden; or
- (2) another authorized department employee.

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

(1) "DNA" means deoxyribonucleic acid.

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

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

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

(3) "RNA" means ribonucleic acid.

(b) After an inspection, the department shall notify a deer breeder in writing when the department has reason to believe the deer breeder possesses deer that may pose a disease risk to other deer. The notice must include an explanation of the rationale used to establish the disease risk.

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

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

(e) The commission shall adopt rules as needed to implement this section.

Sec. 43.360. ENCLOSURE SIZE. A single enclosure for breeder deer may not contain more than 100 acres.

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

(b) Except as provided by Subchapter C or by a rule adopted by the commission under this subchapter, no person may purchase, obtain, sell, transfer, or accept in this state a live breeder deer unless the person obtains a transfer permit from the department.

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

(1) has removed the antlers of the breeder deer between the G-3 tine, as defined by the Boone and Crockett Club, and the pedicel on each antler main beam; and
(2) has followed any procedure prescribed by rule of the commission for the lawful conduct of activities under this subchapter.

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

(1) to another deer breeder's facility; or
(2) to an enclosure authorized under a deer management permit.

(c) The commission shall adopt rules governing a transfer permit under this section.

Sec. 43.364. USE OF BREEDER DEER. Breeder deer may be purchased, sold, transferred, or received in this state only for the purposes of liberation or holding for propagation. All breeder deer and increase from breeder deer are under the full force of the laws of this state pertaining to deer, and those breeder deer may be held in captivity for propagation in this state only after a deer breeder's permit is issued by the department under this subchapter.

Sec. 43.365. PROHIBITED ACTS. (a) It is an offense if a deer breeder or another person:

(1) allows the hunting or killing of a breeder deer or any other deer held in captivity in a facility permitted under this subchapter, except as provided by this subchapter or a rule adopted by the commission under this subchapter; or

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

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

Sec. 43.366. APPLICATION OF OTHER LAWS. (a) In order that native species may be preserved, breeder deer held under a deer breeder's permit are subject to all laws and regulations of this state pertaining to deer except as specifically provided in this subchapter. (b) This subchapter may not be construed to restrict or prohibit the use of high fences.

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

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

Sec. 43.369. DEER BREEDER DATABASE. (a) In this section, "database" means a deer breeder database used by the department.

(b) The department in conjunction with the Texas Animal Health Commission, not later than June 1, 2010, shall develop and maintain a process for a database to be shared by both agencies. The database must include the reporting data required to be provided by each deer breeder:

(1) to the department under this subchapter; and

(2) to the Texas Animal Health Commission.

(c) To the extent possible, the department and the Texas Animal Health Commission shall share the database to eliminate the need for a deer breeder to submit duplicate reports to the two agencies.

(d) The Parks and Wildlife Commission and the Texas Animal Health Commission, by rule, shall provide incentives to deer breeders whose cooperation results in reduced costs and increased efficiency by offering:

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

(2) a permit with an extended duration.

(e) The Parks and Wildlife Commission and the Texas Animal Health Commission may adopt rules to implement this section.