

Senate Bill No. 351

(By Senators Williams, D. Facemire, McCabe,
Plymale, Miller, Klempa and Sypolt)

[Introduced January 31, 2011; referred to the Committee on
Agriculture; and then to the Committee on Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-2H-1, §19-2H-2, §19-2H-3, §19-2H-4, §19-2H-5, §19-2H-6, §19-2H-7, §19-2H-8, §19-2H-9, §19-2H-10, §19-2H-11, §19-2H-12, §19-2H-13, §19-2H-14 and §19-2H-15; to amend and reenact §19-29-2 of said code; to amend and reenact §20-1-2 of said code; and to amend and reenact §20-2-11 and §20-2-12 of said code, all relating to regulating captive cervid farming as an agricultural enterprise in this state; powers and duties of the Department of Agriculture; promulgation of rules; duties and obligation of the commissioner; application process; issuance, renewal, modification and transfer of a license certificate; inspection of facilities; transition of current facilities; noncom-

pliance with article; and providing for certain criminal penalties and remedies.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §19-2H-1, §19-2H-2, §19-2H-3, §19-2H-4, §19-2H-5, §19-2H-6, §19-2H-7, §19-2H-8, §19-2H-9, §19-2H-10, §19-2H-11, §19-2H-12, §19-2H-13, §19-2H-14 and §19-2H-15; that §19-29-2 of said code be amended and reenacted; that §20-1-2 of said code be amended and reenacted; and that §20-2-11 and §20-2-12 of said code be amended and reenacted, all to read as follows:

CHAPTER 19. AGRICULTURE.

ARTICLE 2H. CAPTIVE CERVID FARMING ACT.

§19-2H-1. Short title.

1 This article shall be known and may be cited as the
2 “Captive Cervid Farming Act.”

§19-2H-2. Purpose and Legislative findings.

1 (a) The purpose of this article is to promote this state’s
2 agricultural economy, to preserve family farming opportuni-
3 ties, to encourage agricultural uses of the natural topography
4 of the state’s rural lands and to foster job retention and job
5 creation in the state’s rural areas, by providing for compre-

6 hensive regulation in the public interest of captive cervid
7 farming as a viable agricultural business.

8 (b) The Legislature finds and declares that captive cervid
9 farming is primarily an agricultural pursuit which is sepa-
10 rate from and largely unrelated to wildlife management, and
11 that captive cervids should be treated in a manner similar to
12 other farm livestock animals. The Legislature further finds
13 and declares that the Commissioner of Agriculture and the
14 professional staff of that department possess the knowledge,
15 training and experience required to properly regulate captive
16 cervid farming as an agricultural business and to adequately
17 protect the health and safety of animals and the general
18 public in connection with this farming business. The Legisla-
19 ture also finds and declares that matters related to animal
20 health, farm fencing, animal identification, agricultural
21 record-keeping and animal husbandry methods and equip-
22 ment are best managed and regulated by the farming
23 professionals within the Department of Agriculture, in
24 consultation with the Division of Natural Resources and
25 other state agencies and departments having related regula-
26 tory authority.

§19-2H-3. Definitions.

1 As used in this article:

2 (a) “Bio-security” means measures, actions or precautions
3 taken to prevent the transmission of disease in, among or
4 between free-ranging and captive cervids.

5 (b) “Captive cervid’s or “captive cervids” means members
6 of the Cervidae family of animals including, but not limited
7 to, fallow deer, red deer, white-tail deer, axis deer, elk,
8 moose, reindeer and caribou which are domesticated animals
9 under the control of the owner of the animal.

10 (c) “Commissioner” means the Commissioner of the West
11 Virginia Department of Agriculture.

12 (d) “Department” means the West Virginia Department of
13 Agriculture.

14 (e) “Identification system” means a process or procedure
15 that allows an individual cervid to be continuously recog-
16 nized as a unique animal throughout its lifetime.

17 (f) “License” means the authorization issued by the
18 department for the operation of a captive cervid farming
19 facility.

20 (g) “Licensed captive cervid farming facility” means the
21 specific fenced area and all equipment and components

22 therein approved by the department for use as a captive
23 cervid farming operation, but not including zoos accredited
24 under the American Zoological Association, other petting
25 zoos or roadside menageries licensed under section fifty-two,
26 article two, chapter twenty of this code, or backyard enclo-
27 sures containing less than one acre of fenced area and having
28 captive cervids located there for public or private viewing.

29 (h) "Owner" means the person who owns or operates a
30 licensed captive cervid farming facility.

31 (i) "Person" means an individual, corporation, limited
32 liability company, partnership, association, joint venture or
33 other legal entity.

34 (j) "Release" means to allow a cervid from a licensed
35 captive cervid farming facility to be outside the perimeter
36 fence of that licensed captive cervid farming facility without
37 being under the direct control of the owner or his or her
38 agent.

§19-2H-4. Authority of the Department of Agriculture.

1 The department is hereby granted authority to regulate
2 and control captive cervid farming operations in this state in
3 accordance with this article. Subject to the transition
4 provisions contained in section twelve of this article, no

5 person may operate a captive cervid farming facility in this
6 state unless that person holds a license issued by the com-
7 missioner pursuant to this article authorizing operation of
8 that particular facility.

§19-2H-5. Captive cervid farming rules.

1 (a) The commissioner shall propose legislative rules in
2 accordance with article three, chapter twenty-nine-a of this
3 code as are necessary to provide for implementation and
4 enforcement of this article. Any rules proposed by the
5 commissioner before September 1, 2011, may be by emer-
6 gency rule.

7 (b) The rules, insofar as practicable, shall provide for the
8 protection of animal and human health and promotion of
9 bio-security which are consistent with the rules on those
10 same subjects promulgated by the United States Department
11 of Agriculture, division of animal and plant health inspection
12 service, in order that the rules promulgated pursuant to this
13 section and similar rules promulgated by the United States
14 Department of Agriculture may be harmoniously adminis-
15 tered and applied to captive cervid farming operations
16 subject to both the applicable federal rules and to rules
17 promulgated under this section.

18 (c) The rules promulgated under this section shall include,
19 specific requirements which shall:

20 (1) Prevent the spread of diseases between captive and
21 free-ranging cervids;

22 (2) Implement an identification system which will allow
23 individual captive cervids to be recognized and identified
24 throughout the animal's life;

25 (3) Establish the specifications for fencing necessary to
26 prevent the escape of captive cervids and the infiltration of
27 free-ranging cervids into a licensed captive cervid farming
28 facility;

29 (4) Specify the record-keeping standards required of
30 licensees, including standards for documentation of pur-
31 chases, propagation, sales, harvesting and any other docu-
32 mentation required to maintain accurate and complete
33 records of captive cervid farming operations.

34 (5) Establish animal health testing criteria needed to
35 discover and prevent the spread of animal diseases;

36 (6) Regulate the movement of captive cervids, and provide
37 for maintenance of documentation of the origin and destina-
38 tion of all shipments and any other documentation required
39 under the animal industry laws of this state.

40 (7) Establish a schedule of fees and charges for services
41 provided by the department to licensed captive cervid
42 farming facilities, which fees and charges shall be set so that
43 the costs of regulation pursuant to this article are covered by
44 the combination of the fees and charges, license fees and any
45 federal and state grants and appropriations available for
46 support of the regulation of captive cervid farming opera-
47 tions.

§19-2H-6. Duties and obligations of the commissioner.

1 The commissioner or his or her designees may:

2 (1) Establish within the department a section responsible
3 for the enforcement of this article;

4 (2) Designate members of the department staff responsible
5 for each of the functions required for the proper regulation
6 of captive cervid farming operations;

7 (3) Contract, if deemed desirable, with veterinarians and
8 other animal health professionals to provide services re-
9 quired to assure the bio-security of captive cervid farming
10 operations in this state;

11 (4) Enter into interstate contracts with other states to
12 enhance the bio-security of captive cervid farming opera-
13 tions in this and other states;

14 (5) Lease, rent, acquire, purchase, own, hold, construct,
15 equip, maintain, operate, sell, encumber and assign rights of
16 any property, real or personal, consistent with the objectives
17 set forth in this article;

18 (6) Hold hearings on any matter of concern relating to
19 captive cervid farming, subpoena witnesses, administer
20 oaths, take testimony, require the production of evidence and
21 documentary evidence and designate hearing examiners and
22 employees to so act; and

23 (7) To make and enter into all agreements and do all acts
24 necessary or incidental to the performance of duties and the
25 exercise of powers under this article.

§19-2H-7. Application for license.

1 (a) A person desiring to operate a captive cervid farming
2 facility in this state must submit an application for a license
3 to the department. The department shall provide the forms
4 and instructions for the filing of applications.

5 (b) The application form shall require submission of the
6 following information:

7 (1) The mailing address of the proposed captive cervid
8 farming facility and the size, location and an adequate legal
9 description of the facility;

10 (2) The number of each species of cervid proposed to be
11 included in the proposed facility;

12 (3) The bio-security measures to be utilized, including, but
13 not limited to, a description of the fencing and the animal
14 identification system to be used;

15 (4) The proposed method of flushing wild cervid species
16 from the enclosure, if applicable;

17 (5) The proposed record-keeping system;

18 (6) The method of verification that all free-ranging deer
19 species have been removed;

20 (7) The current zoning, if any, of the property proposed for
21 the facility; and

22 (8) Any other information considered necessary by the
23 department.

24 (c) The application shall be accompanied by the biannual
25 license fee as follows:

26 (1) *Class one license* – For a facility to be used only for
27 breeding and propagation of cervids for sale to others – \$750;

28 (2) *Class two license* – For facilities from which cervids
29 will be harvested – \$1,500.

§19-2H-8. Departmental action on applications.

1 (a) The department shall act on an application for a license
2 within sixty days of receipt. The department may issue a

3 provisional license for a proposed facility which has not yet
4 been constructed, but operations shall not begin under a
5 provisional license until after inspection of the fully con-
6 structed facility by the department and the issuance of a
7 nonprovisional license for the facility.

8 (b) The department may not issue any nonprovisional
9 license until the commissioner has determined that the
10 facility and its operation meet all of the following criteria:

11 (1) The facility has been inspected by the department and
12 the commissioner has determined that the facility and its
13 proposed operation meet each of the standards and require-
14 ments under this article and the rules promulgated under
15 this article;

16 (2) The applicant has all necessary federal, state and local
17 governmental permits required for the facility and opera-
18 tions subject to the license.

19 (3) The owner has paid all applicable license fees and all
20 departmental charges for services provided to the owner's
21 captive cervid farming facility.

22 (c) If the department finds a deficiency in the license
23 application, the owner shall be given at least thirty days to

24 remedy the deficiency before the license application is
25 denied.

26 (d) If the commissioner determines that the proposed
27 captive cervid farming facility or its proposed operation does
28 not comply with the requirements of this article after the
29 opportunity to remedy deficiencies, the commissioner shall
30 deny the application and notify the applicant in writing of
31 the reasons for the denial.

32 (e) The applicant may request a hearing pursuant to article
33 five, chapter twenty-nine-a of this code, to contest the denial
34 of a license or any limitations placed upon the issuance of a
35 license.

36 (f) The department may not return the license fee or any
37 portion of the license fee to an applicant if a license is
38 denied.

**§19-2H-9. License certificate; renewal; sale or transfer of
license.**

1 (a) The department shall issue a license certificate to the
2 owner of each licensed captive cervid farming facility, which
3 shall contain the following information:

4 (1) The class of license, the license number and expiration
5 date;

6 (2) The deer species approved for the licensed facility;

7 (3) The name, business address and telephone number of
8 the owner of the licensed facility; and

9 (4) The address of the captive cervid farming facility.

10 (b) An application for renewal of a license shall be submit-
11 ted on forms provided by the department not later than sixty
12 days before expiration of the current license. Each license
13 issued shall be for a period of two years from the date of
14 issuance.

15 (c) The sale or transfer of ownership of a captive cervid
16 farming facility will not operate to transfer the license. The
17 department may issue a new license to the transferee, if all
18 license requirements are met and a new license fee is paid.

§19-2H-10. License modification.

1 An owner must apply to the department for a license
2 modification if there is any proposed change in the class of
3 license or the species approved for the licensed facility.

§19-2H-11. Inspection of facility by the department.

1 The department and its duly authorized agents shall have
2 access at all reasonable hours to any licensed captive cervid
3 farming facility for the purpose of conducting inspections,
4 securing samples or specimens of any cervid species and

5 determining whether the owner is in compliance with the
6 requirements of this article. Any inspection and sampling
7 shall be conducted in a manner which will not jeopardize the
8 health of the captive cervids.

**§19-2H-12. Transition to captive cervid farming licenses; statutory
conflicts.**

1 (a) A captive cervid farming facility in existence on the
2 effective date of this article may continue operation under its
3 existing authorization until the department acts on its
4 application for a license under this article, provided the
5 owner of that facility makes application for a license under
6 this article within sixty days after application forms are
7 available from the department.

8 (b) Notwithstanding any other law to the contrary, an
9 owner or an owner's customer harvesting captive cervids
10 from a licensed captive cervid farming facility is not subject
11 to any possession limits laws, closed season laws, or hunting
12 license requirements. A license under this article does not
13 give the licensee any right to take free-ranging cervids unless
14 it is done pursuant to a permit issued by the Division of
15 Natural Resources.

16 (c) A licensed captive cervid farming facility is not subject
17 to sections eleven, twelve, thirteen, fourteen, forty-seven and
18 fifty-one, article two, chapter twenty of this code or the rules
19 promulgated thereunder.

**§19-2H-13. Noncompliance with article, standards, orders or
rules; suspension, revocation or limitation of
license.**

1 The department may suspend, revoke or limit a license if
2 the licensee fails to comply with this article, standards
3 adopted under this article, orders issued by the commissioner
4 as a result of an administrative action or departmental
5 review conducted under this article or rules promulgated
6 under this article.

§19-2H-14. Prohibited conduct; violation; penalty.

1 (a) A person may not release or allow the release of any
2 captive cervids from a captive cervid farming facility. This
3 subsection does not prohibit the sale, breeding, marketing,
4 exhibition or other uses of captive cervids approved by the
5 department.

6 (b) An owner may not abandon a captive cervid farming
7 facility without first notifying the department in compliance
8 with standards established under this article.

9 (c) A person may not intentionally or knowingly cause the
10 ingress of free-ranging cervids into a captive cervid farming
11 facility.

12 (d) Any person who violates subsection (a) or (b) of this
13 section is guilty of a misdemeanor and, upon conviction
14 thereof, shall be fined not more than \$300, confined in jail
15 for not more than ninety days, or both fine and confined, for
16 a first offense. A second or subsequent offense is a misde-
17 meanor and, is punishable by a fine of not more than \$1,000,
18 confinement for not more than one year, or both fined and
19 confined.

20 (e) Notwithstanding subsection (d) of this section, any
21 person who intentionally or knowingly violates subsection
22 (a), (b) or (c) of this section is guilty of a felony and, upon
23 conviction thereof, shall be fined not more than \$1,000 or
24 imprisoned in a state correctional facility not less than one
25 nor more than three years, or both fined and imprisoned.

§19-2H-15. Findings of violations; remedies.

1 (a) The commissioner, upon finding that a person has
2 violated any requirements under this article, may:

3 (1) Issue a warning; or

4 (2) Impose a civil penalty of not more than \$1,000, plus the
5 costs of investigation, for each violation, after notice and an
6 opportunity for a hearing. A person aggrieved by an adminis-
7 trative action under this section may request a hearing
8 pursuant to article five, chapter twenty-nine-a of this code.

9 (b) Notwithstanding any other provisions of this article,
10 the commissioner may bring an action to:

11 (1) Obtain a declaratory judgment that a particular
12 method, activity or practice is a violation of this article; or

13 (2) Obtain an injunction against a person who is engaging
14 in a method, activity or practice that violates this article.

15 (c) The remedies under this article are cumulative and use
16 of one remedy does not bar the use of any other remedy.

**ARTICLE 29. PRODUCTION OF NONTRADITIONAL AGRICULTURE
PRODUCTS.**

§19-29-2. Definitions.

1 (a) "Aquaculture" means the commercial production of fish
2 and/or other aquatic life.

3 (b) "Commissioner" means the Commissioner of Agricul-
4 ture or his or her designee.

5 (c) "Domestic purposes" means for the purposes of food
6 production, for resale as breeding stock or for the sale of
7 immature stock for the purposes of further feeding.

8 (d) “Nontraditional agriculture” means the production of
9 animals domesticated from wild stock, either native or
10 nonnative, and are being confined, bred and/or fed for
11 domestic purposes, ~~except that white-tailed deer (*Odocoileus*~~
12 ~~*virginianus*) and all its subspecies shall not be included~~
13 including privately owned cervid and all its subspecies that
14 are kept pursuant to article two-h of this chapter;
15 aquaculture; or other agricultural products as defined in this
16 article.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-2. Definitions.

1 As used in this chapter, unless the context clearly requires
2 a different meaning:

3 “Agency” means any branch, department or unit of the
4 state government, however designated or constituted.

5 “Alien” means any person not a citizen of the United
6 States.

7 “Bag limit” or “creel limit” means the maximum number
8 of wildlife which may be taken, caught, killed or possessed
9 by any person.

10 “Big game” means elk, deer, black bears, wild boars and
11 wild turkeys.

12 “Bona fide resident, tenant or lessee” means a person who
13 permanently resides on the land.

14 “Citizen” means any native-born citizen of the United
15 States and foreign-born persons who have procured their
16 final naturalization papers.

17 “Closed season” means the time or period during which it
18 shall be unlawful to take any wildlife as specified and
19 limited by ~~the provisions of~~ this chapter.

20 “Commission” means the Natural Resources Commission.

21 “Commissioner” means a member of the advisory commis-
22 sion of the Natural Resources Commission.

23 “Director” means the Director of the Division of Natural
24 Resources.

25 “Fishing” or “to fish” means the taking, by any means, of
26 fish, minnows, frogs or other amphibians, aquatic turtles and
27 other forms of aquatic life used as fish bait.

28 “Fur-bearing animals” include: (a) The mink; (b) the
29 weasel; (c) the muskrat; (d) the beaver; (e) the opossum; (f)
30 the skunk and civet cat, commonly called polecat; (g) the

31 otter; (h) the red fox; (i) the gray fox; (j) the wildcat, bobcat
32 or bay lynx; (k) the raccoon; and (l) the fisher.

33 “Game” means game animals, game birds and game fish as
34 herein defined.

35 “Game animals” include: (a) The elk; (b) the deer; (c) the
36 cottontail rabbits and hares; (d) the fox squirrels, commonly
37 called red squirrels, and gray squirrels and all their color
38 phases - red, gray, black or albino; (e) the raccoon; (f) the
39 black bear; and (g) the wild boar. The term “game animals”
40 does not include privately owned cervid and all its subspe-
41 cies that are kept pursuant to article two-h, chapter nineteen
42 of this code.

43 “Game birds” include: (a) The anatidae, commonly known
44 as swan, geese, brants and river and sea ducks; (b) the
45 rallidae, commonly known as rails, sora, coots, mudhens and
46 gallinule; (c) the limicolae, commonly known as shorebirds,
47 plover, snipe, woodcock, sandpipers, yellow legs and cur-
48 lews; (d) the galliformes, commonly known as wild turkey,
49 grouse, pheasants, quails and partridges (both native and
50 foreign species); (e) the columbidae, commonly known as
51 doves; (f) the icteridae, commonly known as blackbirds,

52 redwings and grackle; and (g) the corvidae, commonly known
53 as crows.

54 “Game fish” include: (a) Brook trout; (b) brown trout; (c)
55 rainbow trout; (d) golden rainbow trout; (e) largemouth bass;
56 (f) smallmouth bass; (g) spotted bass; (h) striped bass; (i)
57 chain pickerel; (j) muskellunge; (k) walleye; (l) northern pike;
58 (m) rock bass; (n) white bass; (o) white crappie; (p) black
59 crappie; (q) all sunfish species; (r) channel catfish; (s)
60 flathead catfish; (t) blue catfish, (u) sauger; and (v) all game
61 fish hybrids.

62 “Hunt” means to pursue, chase, catch or take any wild
63 birds or wild animals. ~~Provided, That~~ However, the defini-
64 tion of “hunt” does not include an officially sanctioned and
65 properly licensed field trial, water race or wild hunt as long
66 as that field trial is not a shoot-to-retrieve field trial.

67 “Lands” means land, waters and all other appurtenances
68 connected therewith.

69 “Migratory birds” means any migratory game or nongame
70 birds included in the terms of conventions between the
71 United States and Great Britain and between the United
72 States and United Mexican States, known as the Migratory
73 Bird Treaty Act, for the protection of migratory birds and

74 game mammals concluded, respectively, August 16, 1916, and
75 February 7, 1936.

76 “Nonresident” means any person who is a citizen of the
77 United States and who has not been a domiciled resident of
78 the State of West Virginia for a period of thirty consecutive
79 days immediately prior to the date of his or her application
80 for a license or permit except any full-time student of any
81 college or university of this state, even though he or she is
82 paying a nonresident tuition.

83 “Open season” means the time during which the various
84 species of wildlife may be legally caught, taken, killed or
85 chased in a specified manner and shall include both the first
86 and the last day of the season or period designated by the
87 director.

88 “Person”, except as otherwise defined elsewhere in this
89 chapter, means the plural “persons” and shall include
90 individuals, partnerships, corporations or other legal
91 entities.

92 “Preserve” means all duly licensed private game farm-
93 lands, or private plants, ponds or areas, where hunting or
94 fishing is permitted under special licenses or seasons other
95 than the regular public hunting or fishing seasons. The term

96 “preserve” does not include privately-owned lands that are
97 kept pursuant to article two-h, chapter nineteen of this code.

98 “Protected birds” means all wild birds not included within
99 the definition of “game birds” and “unprotected birds”.

100 “Resident” means any person who is a citizen of the United
101 States and who has been a domiciled resident of the State of
102 West Virginia for a period of thirty consecutive days or more
103 immediately prior to the date of his or her application for
104 license or permit. ~~Provided, That~~ However, a member of the
105 Armed Forces of the United States who is stationed beyond
106 the territorial limits of this state, but who was a resident of
107 this state at the time of his or her entry into such service and
108 any full-time student of any college or university of this
109 state, even though he or she is paying a nonresident tuition,
110 shall be considered a resident under ~~the provisions of this~~
111 chapter.

112 “Roadside menagerie” means any place of business, other
113 than a commercial game farm, commercial fish preserve,
114 place or pond, where any wild bird, game bird, unprotected
115 bird, game animal or fur-bearing animal is kept in confine-
116 ment for the attraction and amusement of the people for
117 commercial purposes.

118 “Small game” includes all game animals, furbearing
119 animals and game birds except elk, deer, black bears, wild
120 boars and wild turkeys.

121 “Take” means to hunt, shoot, pursue, lure, kill, destroy,
122 catch, capture, keep in captivity, gig, spear, trap, ensnare,
123 wound or injure any wildlife, or attempt to do so. ~~Provided,~~
124 ~~That~~ However, the definition of “take” does not include an
125 officially sanctioned and properly licensed field trial, water
126 race or wild hunt as long as that field trial is not a
127 shoot-to-retrieve field trial.

128 “Unprotected birds” shall include: (a) The English spar-
129 row; (b) the European starling; and (c) the cowbird.

130 “Wild animals” means all mammals native to the State of
131 West Virginia occurring either in a natural state or in
132 captivity, except house mice or rats. The term “wild ani-
133 mals” does not include privately-owned cervid and all its
134 subspecies that are kept pursuant to article two-h, chapter
135 nineteen of this code.

136 “Wild birds” shall include all birds other than: (a) Domes-
137 tic poultry - chickens, ducks, geese, guinea fowl, peafowls
138 and turkeys; (b) psittacidae, commonly called parrots and
139 parakeets; and (c) other foreign cage birds such as the

140 common canary, exotic finches and ring dove. All wild birds,
 141 either: (i) Those occurring in a natural state in West Virginia;
 142 or (ii) those imported foreign game birds, such as waterfowl,
 143 pheasants, partridges, quail and grouse, regardless of how
 144 long raised or held in captivity, shall remain wild birds
 145 under the meaning of this chapter.

146 “Wildlife” means wild birds, wild animals, game and
 147 fur-bearing animals, fish (including minnows,) reptiles,
 148 amphibians, mollusks, crustaceans and all forms of aquatic
 149 life used as fish bait, whether dead or alive. The term
 150 “wildlife” does not include privately owned cervid and all its
 151 subspecies that are kept pursuant to article two-h, chapter
 152 nineteen of this code.

153 “Wildlife refuge” means any land set aside by action of the
 154 director as an inviolate refuge or sanctuary for the protection
 155 of designated forms of wildlife.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-11. Sale of wildlife; transportation of same.

1 (a) ~~No~~ A person, except those legally licensed to operate
 2 private game preserves for the purpose of propagating game
 3 for commercial purposes and those legally licensed to
 4 propagate or sell fish, amphibians and other forms of aquatic

5 life, ~~shall~~ may not purchase or offer to purchase, sell or offer
6 to sell, expose for sale, or have in his or her possession for
7 the purpose of sale any wildlife, or part thereof, which has
8 been designated as game animals, fur-bearing animals, game
9 birds, game fish or amphibians, or any of the song or insectivorous
10 birds of the state, or any other species of wildlife
11 which the director may designate, except for privately owned
12 cervid and all its subspecies that are kept pursuant to the
13 provisions of article two-h, chapter nineteen of this code.
14 ~~Provided, That~~ However, pelts of game or fur-bearing
15 animals taken during the legal season may be sold and live
16 red and gray foxes and raccoon taken by legal methods
17 during legal and established trapping seasons may be sold
18 within the state. ~~Provided, however, That~~ In addition, the
19 hide, head, antlers and feet of a legally killed deer and the
20 hide, head and skull of a legally killed black bear may be
21 sold.

22 (b) ~~No~~ A person, including a common carrier, ~~shall~~ may not
23 transport, carry or convey, or receive for such purposes any
24 wildlife, the sale of which is prohibited, if such person knows
25 or has reason to believe that such wildlife has been or is to
26 be sold in violation of this section.

27 (c) ~~The~~ Each separate act of selling or exposing for sale,
28 having in possession for sale, transporting or carrying in
29 violation of this section ~~shall each constitute~~ constitutes a
30 separate misdemeanor offense. Notwithstanding ~~the provi-~~
31 ~~sions of~~ this or any other section of this chapter, any game
32 birds or game bird meats sold by licensed retailers may be
33 served at any hotel, restaurant or other licensed eating place
34 in this state.

35 (d) The director ~~shall have authority to promulgate~~ may
36 propose rules for promulgation in accordance with article
37 three, chapter twenty-nine-a of this code, dealing with the
38 sale of wildlife and the skins thereof.

§20-2-12. Transportation of wildlife out-of-state; penalties.

1 (a) A person may not transport or have in his or her
2 possession with the intention of transporting beyond the
3 limits of the state any species of wildlife or any part thereof
4 killed, taken, captured or caught within this state, except as
5 provided in this section.

6 (1) A person legally entitled to hunt and fish in this state
7 may take with him or her personally, when leaving the state,
8 any wildlife that he or she has lawfully taken or killed, not

9 exceeding, during the open season, the number that any
10 person may lawfully possess.

11 (2) Licensed resident hunters and trappers and resident
12 and nonresident fur dealers may transport beyond the limits
13 of the state pelts of game and fur-bearing animals taken
14 during the legal season.

15 (3) A person may transport the hide, head, antlers and feet
16 of a legally killed deer and the hide, head, skull, organs and
17 feet of a legally killed black bear beyond the limits of the
18 state.

19 (4) A person legally entitled to possess an animal according
20 to section four, article two of this chapter may transport that
21 animal beyond the limits of the state.

22 (b) The director ~~shall have authority to~~ may promulgate
23 rules in accordance with chapter twenty-nine-a of this code
24 dealing with the transportation and tagging of wildlife and
25 the skins.

26 (c) A person ~~violating~~ who violates ~~the provisions of this~~
27 section by transporting or possessing with the intention of
28 transporting beyond the limits of this state deer or wild boar
29 shall be ~~deemed~~ considered to have committed a separate
30 offense for each animal so transported or possessed. This

31 section does not apply to privately-owned cervid or any of its
32 subspecies that are kept pursuant to article two-h, chapter
33 nineteen of this code.

34 (d) A person violating ~~the provisions of~~ this section shall be
35 guilty of a misdemeanor and, upon conviction thereof, shall
36 be fined not less than \$20 nor more than \$300 and be ~~impris-~~
37 ~~oned~~ confined in jail not less than ten nor more than sixty
38 days.

39 (e) This section does not apply to persons legally entitled to
40 propagate and sell wild animals, wild birds, fish, amphibians
41 and other forms of aquatic life beyond the limits of the state.

(NOTE: The purpose of this bill is to regulate captive cervid farming as an agricultural enterprise in this state. Toward this purpose, the bill describes powers and duties of the Department of Agriculture; provides for rule-making authority; sets forth duties and obligations of the commissioner; provides for an application process; provides for the issuance, renewal, modification, and transfer of a license certificate; provides for inspection of facilities; provides for the transition of current facilities; addresses noncompliance with article and provides for certain criminal penalties and remedies due to noncompliance.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

Article 2H is new; therefore, strike-throughs and underscoring have been omitted.)