

Senate Bill No. 237

(By Senators D. Hall, Romano, Snyder, Facemire and Williams)

[Introduced January 16, 2015; referred to the Committee on Agriculture and Rural Development;
and then to the Committee on Finance.]

**FISCAL
NOTE**

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; stating powers and duties of the Department of Agriculture; promulgating rules; establishing duties and obligation of the commissioner; creating application process; issuing, renewing, modifying and transferring license certificates; inspecting facilities; transitioning current facilities to new licensure procedures; creating penalties for noncompliance with article; amending Division of Natural Resources laws relating to captive cervids; and providing for certain criminal penalties and remedies.

Be it enacted by the Legislature of West Virginia:

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

7 **CHAPTER 19. AGRICULTURE.**

8 **ARTICLE 2H. CAPTIVE CERVID FARMING ACT.**

9 **§19-2H-1. Short title.**

10 This article shall be known and may be cited as the Captive Cervid Farming Act.

11 **§19-2H-2. Purpose and legislative findings.**

12 (a) The purpose of this article is to promote this state’s agricultural economy, to preserve
13 family farming opportunities, to encourage agricultural uses of the natural topography of the state’s
14 rural lands and to foster job retention and job creation in the state’s rural areas, by providing for
15 comprehensive regulation in the public interest of captive cervid farming as a viable agricultural
16 business.

17 (b) The Legislature finds and declares that captive cervid farming is primarily an agricultural
18 pursuit which is separate from and largely unrelated to wildlife management, and that captive cervids
19 should be treated in a manner similar to other farm livestock animals. The Legislature further finds
20 and declares that the Commissioner of Agriculture and the professional staff of that department he
21 possess the knowledge, training and experience required to properly regulate captive cervid farming
22 as an agricultural business and to adequately protect the health and safety of animals and the general

1 public in connection with this farming business. The Legislature also finds and declares that matters
2 related to animal health, farm fencing, animal identification, agricultural record keeping and animal
3 husbandry methods and equipment are best managed and regulated by the farming professionals
4 within the Department of Agriculture, in consultation with the Division of Natural Resources and
5 other state agencies and departments having related regulatory authority.

6 **§19-2H-3. Definitions.**

7 As used in this article:

8 (a) "Bio-security" means measures, actions or precautions taken to prevent the transmission
9 of disease in, among or between free-ranging and captive cervids.

10 (b) "Captive cervid" or "captive cervids" means a member of the Cervidae family of animals
11 including, but not limited to, fallow deer, red deer, white-tail deer, axis deer, elk, moose, reindeer
12 and caribou which are domesticated animals under the control of the owner of the animal.

13 (c) "Commissioner" means the Commissioner of the West Virginia Department of
14 Agriculture.

15 (d) "Department" means the West Virginia Department of Agriculture.

16 (e) "Identification system" means a process or procedure that allows an individual cervid to
17 be continuously recognized as a unique animal throughout its lifetime.

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

20 (g) "Licensed captive cervid farming facility" means the specific fenced area and all
21 equipment and components therein approved by the department for use as a captive cervid farming
22 operation, but not including zoos accredited under the American Zoological Association, other

1 petting zoos or roadside menageries licensed under section fifty-two, article two, chapter twenty of
2 this code, or backyard enclosures containing less than one acre of fenced area and having captive
3 cervids located there for public or private viewing.

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

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

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

11 **§19-2H-4. Authority of the Department of Agriculture.**

12 The department is hereby granted authority to regulate and control captive cervid farming
13 operations in this state in accordance with this article. Subject to the transition provisions contained
14 in section twelve of this article, no person may operate a captive cervid farming facility in this state
15 unless that person holds a license issued by the commissioner pursuant to this article authorizing
16 operation of that particular facility.

17 **§19-2H-5. Captive cervid farming rules.**

18 (a) The commissioner shall propose legislative rules in accordance with article three, chapter
19 twenty-nine-a of this code as are necessary to provide for implementation and enforcement of this
20 article. Any rules promulgated by the commissioner before September 1, 2015, may be by
21 emergency rule.

22 (b) The rules, insofar as practicable, shall provide for the protection of animal and human

1 health and promotion of bio-security which are consistent with the rules on those same subjects
2 promulgated by the United States Department of Agriculture, Division of Animal and Plant Health
3 Inspection Service, in order that the rules promulgated pursuant to this section and similar rules
4 promulgated by the United States Department of Agriculture may be harmoniously administered and
5 applied to captive cervid farming operations subject to both the applicable federal rules and to rules
6 promulgated under this section.

7 (c) The rules promulgated under this section shall include specific requirements which shall:

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

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

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

13 (4) Specify the record-keeping standards required of licensees, including standards for
14 documentation of purchases, propagation, sales, harvesting and any other documentation required
15 to maintain accurate and complete records of captive cervid farming operations;

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

18 (6) Regulate the movement of captive cervids and provide for maintenance of documentation
19 of the origin and destination of all shipments and any other documentation required under the animal
20 industry laws of this state; and

21 (7) Establish a schedule of fees and charges for services provided by the department to
22 licensed captive cervid farming facilities, which fees and charges shall be set so that the costs of

1 regulation pursuant to this article are covered by the combination of the fees and charges, license fees
2 and any federal and state grants and appropriations available for support of the regulation of captive
3 cervid farming operations.

4 **§19-2H-6. Duties and obligations of the commissioner.**

5 The commissioner or his or her designees may:

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

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

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

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

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

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

20 (7) Make and enter into all agreements and do all acts necessary or incidental to the
21 performance of duties and the exercise of powers under this article.

22 **§19-2H-7. Application for license.**

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

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

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

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

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

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

11 (5) The proposed record-keeping system;

12 (6) The method of verification that all wild cervid species have been removed;

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

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

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

16 (1) *Class one license.* -- For a facility to be used only for breeding and propagation of cervids
17 for sale to others – \$750; or

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

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

20 (a) The department shall act on an application for a license within sixty days of receipt. The
21 department may issue a provisional license for a proposed facility which has not yet been
22 constructed, but operations shall not begin under a provisional license until after inspection of the

1 fully constructed facility by the department and the issuance of a nonprovisional license for the
2 facility.

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

5 (1) The facility has been inspected by the department and the commissioner has determined
6 that the facility and its proposed operation meet each of the standards and requirements under this
7 article and the rules promulgated under this article;

8 (2) The applicant has all necessary federal, state and local governmental permits required for
9 the facility and operations subject to the license; and

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

12 (c) If the department finds a deficiency in the license application, the owner shall be given
13 at least thirty days to remedy the deficiency before the license application is denied.

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

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

20 (f) The department shall retain the license fee or any portion of the license fee to an applicant
21 if a license is denied.

22 **§19-2H-9. License certificate; renewal; sale or transfer of license.**

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

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

4 (2) The cervid species approved for the licensed facility;

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

6 and

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

8 (b) An application for renewal of a license shall be submitted on forms provided by the
9 department not later than sixty days before expiration of the current license. Each license issued
10 shall be for a period of two years from the date of issuance.

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

14 **§19-2H-10. License modification.**

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

17 **§19-2H-11. Inspection of facility by the department.**

18 The department and its duly authorized agents shall have access at all reasonable hours to any
19 licensed captive cervid farming facility for the purpose of conducting inspections, securing samples
20 or specimens of any cervid species and determining whether the owner is in compliance with the
21 requirements of this article. Any inspection and sampling shall be conducted in a manner which will
22 not jeopardize the health of the captive cervids.

1 **§19-2H-12. Transition to captive cervid farming licenses; statutory conflicts.**

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

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

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

14 **§19-2H-13. Noncompliance with article, standards, orders or rules; suspension, revocation or**
15 **limitation of license.**

16 The department may suspend, revoke or limit a license if the licensee fails to comply with
17 this article, standards adopted under this article, orders issued by the commissioner as a result of an
18 administrative action or departmental review conducted under this article or rules promulgated under
19 this article.

20 **§19-2H-14. Prohibited conduct; violation; penalty.**

21 (a) A person may not release or allow the release of any captive cervids from a captive cervid
22 farming facility. This subsection does not prohibit the sale, breeding, marketing, exhibition or other

1 uses of captive cervids approved by the department.

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

4 (c) A person may not cause the entry or introduction of wild deer into a captive cervid
5 farming facility.

6 (d) Any person who violates subsection (a) or (b) of this section is guilty of a misdemeanor
7 and, upon conviction thereof, shall, for a first offense, be confined in jail for not more than ninety
8 days, or fined not more than \$300 or both fined and confined. Any person who violates subsection
9 (a) or (b) for a second or subsequent offense is guilty of a misdemeanor and, upon conviction thereof,
10 shall be confined in jail for not more than one year, or fined not more than \$1,000 or both fined and
11 confined.

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

16 **§19-2H-15. Findings of violations; remedies.**

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

19 (1) Issue a warning; or

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

1 code.

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

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

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

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

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

11 **§19-29-2. Definitions.**

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

13 (b) "Commissioner" means the Commissioner of Agriculture or his or her designee.

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

16 (d) "Nontraditional agriculture" means the production of animals domesticated from wild
17 stock, either native or nonnative, and are being confined, bred and/or fed for domestic purposes,
18 ~~except that white-tailed deer (*Odocoileus virginianus*) and all its subspecies shall not be included~~
19 including privately owned captive cervids that are kept pursuant to article two-h of this chapter;
20 aquaculture; or other agricultural products as defined in this article.

21 **CHAPTER 20. NATURAL RESOURCES.**

22 **ARTICLE 1. ORGANIZATION AND ADMINISTRATION.**

1 **§20-1-2. Definitions.**

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

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

5 "Alien" means any person not a citizen of the United States.

6 "Bag limit" or "creel limit" means the maximum number of wildlife which may be taken,
7 caught, killed or possessed by any person.

8 "Big game" means elk, deer, black bears, wild boars and wild turkeys.

9 "Bona fide resident, tenant or lessee" means a person who permanently resides on the land.

10 "Citizen" means any native-born citizen of the United States and foreign-born persons who
11 have procured their final naturalization papers.

12 "Closed season" means the time or period during which it shall be unlawful to take any
13 wildlife as specified and limited by ~~the provisions of~~ this chapter.

14 "Commission" means the Natural Resources Commission.

15 "Commissioner" means a member of the advisory commission of the Natural Resources
16 Commission.

17 "Director" means the Director of the Division of Natural Resources.

18 "Fishing" or "to fish" means the taking, by any means, of fish, minnows, frogs or other
19 amphibians, aquatic turtles and other forms of aquatic life used as fish bait.

20 "Fur-bearing animals" include:(a) The mink; (b) the weasel; (c) the muskrat; (d) the beaver;
21 (e) the opossum; (f) the skunk and civet cat, commonly called polecat; (g) the otter; (h) the red fox;
22 (I) the gray fox; (j) the wildcat, bobcat or bay lynx; (k) the raccoon; and (l) the fisher.

1 "Game" means game animals, game birds and game fish as herein defined.

2 "Game animals" include:(a) The elk; (b) the deer; (c) the cottontail rabbits and hares; (d) the
3 fox squirrels, commonly called red squirrels, and gray squirrels and all their color phases - red, gray,
4 black or albino; (e) the raccoon; (f) the black bear; and (g) the wild boar. The term "game animals"
5 does not include privately owned captive cervids that are kept pursuant to article two-h, chapter
6 nineteen of this code.

7 "Game birds" include:(a) The anatidae, commonly known as swan, geese, brants and river
8 and sea ducks; (b) the rallidae, commonly known as rails, sora, coots, mudhens and gallinule; (c) the
9 limicolae, commonly known as shorebirds, plover, snipe, woodcock, sandpipers, yellow legs and
10 curlews; (d) the galliformes, commonly known as wild turkey, grouse, pheasants, quails and
11 partridges (both native and foreign species); (e) the columbidae, commonly known as doves; (f) the
12 icteridae, commonly known as blackbirds, redwings and grackle; and (g) the corvidae, commonly
13 known as crows.

14 "Game fish" include:(a) Brook trout; (b) brown trout; (c) rainbow trout; (d) golden rainbow
15 trout; (e) largemouth bass; (f) smallmouth bass; (g) spotted bass; (h) striped bass; (I) chain pickerel;
16 (j) muskellunge; (k) walleye; (l) northern pike; (m) rock bass; (n) white bass; (o) white crappie; (p)
17 black crappie; (q) all sunfish species; (r) channel catfish; (s) flathead catfish; (t) blue catfish, (u)
18 sauger; and (v) all game fish hybrids.

19 "Hunt" means to pursue, chase, catch or take any wild birds or wild animals. ~~Provided, That~~
20 However, the definition of "hunt" does not include an officially sanctioned and properly licensed
21 field trial, water race or wild hunt as long as that field trial is not a shoot-to-retrieve field trial.

22 "Lands" means land, waters and all other appurtenances connected therewith.

1 "Migratory birds" means any migratory game or nongame birds included in the terms of
2 conventions between the United States and Great Britain and between the United States and United
3 Mexican States, known as the Migratory Bird Treaty Act, for the protection of migratory birds and
4 game mammals concluded, respectively, August 16, 1916, and February 7, 1936.

5 "Nonresident" means any person who is a citizen of the United States and who has not been
6 a domiciled resident of the State of West Virginia for a period of thirty consecutive days immediately
7 prior to the date of his or her application for a license or permit except any full-time student of any
8 college or university of this state, even though he or she is paying a nonresident tuition.

9 "Open season" means the time during which the various species of wildlife may be legally
10 caught, taken, killed or chased in a specified manner and shall include both the first and the last day
11 of the season or period designated by the director.

12 "Person", except as otherwise defined elsewhere in this chapter, means the plural "persons"
13 and shall include individuals, partnerships, corporations or other legal entities.

14 "Preserve" means all duly licensed private game farmlands, or private plants, ponds or areas,
15 where hunting or fishing is permitted under special licenses or seasons other than the regular public
16 hunting or fishing seasons. The term "preserve" does not include privately owned lands that are kept
17 pursuant to article two-h, chapter nineteen of this code.

18 "Protected birds" means all wild birds not included within the definition of "game birds" and
19 "unprotected birds".

20 "Resident" means any person who is a citizen of the United States and who has been a
21 domiciled resident of the State of West Virginia for a period of thirty consecutive days or more
22 immediately prior to the date of his or her application for license or permit. ~~Provided, That~~

1 However, a member of the armed forces of the United States who is stationed beyond the territorial
2 limits of this state, but who was a resident of this state at the time of his or her entry into such service
3 and any full-time student of any college or university of this state, even though he or she is paying
4 a nonresident tuition, shall be considered a resident under ~~the provisions of~~ this chapter.

5 "Roadside menagerie" means any place of business, other than a commercial game farm,
6 commercial fish preserve, place or pond, where any wild bird, game bird, unprotected bird, game
7 animal or fur-bearing animal is kept in confinement for the attraction and amusement of the people
8 for commercial purposes.

9 "Small game" includes all game animals, furbearing animals and game birds except elk, deer,
10 black bears, wild boars and wild turkeys.

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

15 "Unprotected birds" shall include:(a) The English sparrow; (b) the European starling; and (c)
16 the cowbird.

17 "Wild animals" means all mammals native to the State of West Virginia occurring either in
18 a natural state or in captivity, except house mice or rats. The term "wild animals" does not include
19 privately owned captive cervids that are kept pursuant to article two-h, chapter nineteen of this code.

20 "Wild birds" shall include all birds other than:(a) Domestic poultry - chickens, ducks, geese,
21 guinea fowl, peafowls and turkeys; (b) psittacidae, commonly called parrots and parakeets; and (c)
22 other foreign cage birds such as the common canary, exotic finches and ring dove. All wild birds,

1 either:(i) Those occurring in a natural state in West Virginia; or (ii) those imported foreign game
 2 birds, such as waterfowl, pheasants, partridges, quail and grouse, regardless of how long raised or
 3 held in captivity, shall remain wild birds under the meaning of this chapter.

4 "Wildlife" means wild birds, wild animals, game and fur-bearing animals, fish (including
 5 minnows), reptiles, amphibians, mollusks, crustaceans and all forms of aquatic life used as fish bait,
 6 whether dead or alive. The term "wildlife" does not include privately owned captive cervids that are
 7 kept pursuant to article two-h, chapter nineteen of this code.

8 "Wildlife refuge" means any land set aside by action of the director as an inviolate refuge or
 9 sanctuary for the protection of designated forms of wildlife.

10 **ARTICLE 2. WILDLIFE RESOURCES.**

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

12 (a) ~~No~~ A person, except those legally licensed to operate private game preserves for the
 13 purpose of propagating game for commercial purposes and those legally licensed to propagate or sell
 14 fish, amphibians and other forms of aquatic life, ~~shall~~ may not purchase or offer to purchase, sell or
 15 offer to sell, expose for sale or have in his or her possession for the purpose of sale any wildlife, or
 16 part thereof, which has been designated as game animals, fur-bearing animals, game birds, game fish
 17 or amphibians, or any of the song or insectivorous birds of the state, or any other species of wildlife
 18 which the director may designate, ~~Provided, That~~ except for privately owned captive cervids that are
 19 kept pursuant to the provisions of article two-h, chapter nineteen of this code. However, pelts of
 20 game or fur-bearing animals taken during the legal season may be sold and live red and gray foxes
 21 and raccoon taken by legal methods during legal and established trapping seasons may be sold within
 22 the state. ~~Provided, however, That~~ In addition, the hide, head, antlers and feet of a legally killed deer

1 and the hide, head and skull of a legally killed black bear may be sold.

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

5 (c) ~~The~~ Each separate act of selling or exposing for sale, having in possession for sale,
6 transporting or carrying in violation of this section ~~shall each constitute~~ constitutes a separate
7 misdemeanor offense. Notwithstanding ~~the provisions of~~ this or any other section of this chapter,
8 any game birds or game bird meats sold by licensed retailers may be served at any hotel, restaurant
9 or other licensed eating place in this state.

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

13 **§20-2-12. Transportation of wildlife out of state; penalties.**

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

17 (1) A person legally entitled to hunt and fish in this state may take with him or her personally,
18 when leaving the state, any wildlife that he or she has lawfully taken or killed, not exceeding, during
19 the open season, the number that any person may lawfully possess.

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

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

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

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

7 (c) A person ~~violating the provisions of~~ who violates this section by transporting or
8 possessing with the intention of transporting beyond the limits of this state deer or wild boar shall
9 be ~~deemed~~ considered to have committed a separate offense for each animal so transported or
10 possessed. This section does not apply to privately owned captive cervids that are kept pursuant to
11 article two-h, chapter nineteen of this code.

12 (d) A person violating ~~the provisions of~~ this section shall be guilty of a misdemeanor and,
13 upon conviction thereof, shall be fined not less than \$20 nor more than \$300 and be ~~imprisoned~~
14 confined in jail not less than ten nor more than sixty days.

15 (e) This section does not apply to persons legally entitled to propagate and sell wild animals,
16 wild birds, fish, amphibians 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.

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

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