

1 **Senate Bill No. 351**

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

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

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

1 with article; and providing for certain criminal penalties and
2 remedies.

3 *Be it enacted by the Legislature of West Virginia:*

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

12 **CHAPTER 19. AGRICULTURE.**

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

14 **§19-2H-1. Short title.**

15 This article shall be known and may be cited as the "Captive
16 Cervid Farming Act."

17 **§19-2H-2. Purpose and Legislative findings.**

18 (a) The purpose of this article is to promote this state's
19 agricultural economy, to preserve family farming opportunities, to
20 encourage agricultural uses of the natural topography of the
21 state's rural lands and to foster job retention and job creation in
22 the state's rural areas, by providing for comprehensive regulation

1 in the public interest of captive cervid farming as a viable
2 agricultural business.

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

20 **§19-2H-3. Definitions.**

21 As used in this article:

22 (a) "Bio-security" means measures, actions or precautions
23 taken to prevent the transmission of disease in, among or between

1 free-ranging and captive cervids.

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

7 (c) "Commissioner" means the Commissioner of the West Virginia
8 Department of Agriculture.

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

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

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

16 (g) "Licensed captive cervid farming facility" means the
17 specific fenced area and all equipment and components therein
18 approved by the department for use as a captive cervid farming
19 operation, but not including zoos accredited under the American
20 Zoological Association, other petting zoos or roadside menageries
21 licensed under section fifty-two, article two, chapter twenty of
22 this code, or backyard enclosures containing less than one acre of
23 fenced area and having captive cervids located there for public or

1 private viewing.

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

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

7 (j) "Release" means to allow a cervid from a licensed captive
8 cervid farming facility to be outside the perimeter fence of that
9 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
13 control captive cervid farming operations in this state in
14 accordance with this article. Subject to the transition provisions
15 contained in section twelve of this article, no person may operate
16 a captive cervid farming facility in this state unless that person
17 holds a license issued by the commissioner pursuant to this article
18 authorizing operation of that particular facility.

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

20 (a) The commissioner shall propose legislative rules in
21 accordance with article three, chapter twenty-nine-a of this code
22 as are necessary to provide for implementation and enforcement of
23 this article. Any rules proposed by the commissioner before

1 September 1, 2011, may be by emergency rule.

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

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

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

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

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

23 (4) Specify the record-keeping standards required of

1 licensees, including standards for documentation of purchases,
2 propagation, sales, harvesting and any other documentation required
3 to maintain accurate and complete records of captive cervid farming
4 operations.

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

7 (6) Regulate the movement of captive cervids, and provide for
8 maintenance of documentation of the origin and destination of all
9 shipments and any other documentation required under the animal
10 industry laws of this state.

11 (7) Establish a schedule of fees and charges for services
12 provided by the department to licensed captive cervid farming
13 facilities, which fees and charges shall be set so that the costs
14 of regulation pursuant to this article are covered by the
15 combination of the fees and charges, license fees and any federal
16 and state grants and appropriations available for support of the
17 regulation of captive cervid farming operations.

18 **§19-2H-6. Duties and obligations of the commissioner.**

19 The commissioner or his or her designees may:

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

22 (2) Designate members of the department staff responsible for
23 each of the functions required for the proper regulation of captive

1 cervid farming operations;

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

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

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

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

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

21 **§19-2H-7. Application for license.**

22 (a) A person desiring to operate a captive cervid farming
23 facility in this state must submit an application for a license to

1 the department. The department shall provide the forms and
2 instructions for the filing of applications.

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

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

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

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

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

15 (5) The proposed record-keeping system;

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

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

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

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

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

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

5 **§19-2H-8. Departmental action on applications.**

6 (a) The department shall act on an application for a license
7 within sixty days of receipt. The department may issue a
8 provisional license for a proposed facility which has not yet been
9 constructed, but operations shall not begin under a provisional
10 license until after inspection of the fully constructed facility by
11 the department and the issuance of a nonprovisional license for the
12 facility.

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

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

20 (2) The applicant has all necessary federal, state and local
21 governmental permits required for the facility and operations
22 subject to the license.

23 (3) The owner has paid all applicable license fees and all

1 departmental charges for services provided to the owner's captive
2 cervid farming facility.

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

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

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

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

16 **§19-2H-9. License certificate; renewal; sale or transfer of**
17 **license.**

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

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

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

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

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

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

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

12 **§19-2H-10. License modification.**

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

16 **§19-2H-11. Inspection of facility by the department.**

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

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

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

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

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

21 **§19-2H-13. Noncompliance with article, standards, orders or**
22 **rules; suspension, revocation or limitation of**

1 **license.**

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

7 **§19-2H-14. Prohibited conduct; violation; penalty.**

8 (a) A person may not release or allow the release of any
9 captive cervids from a captive cervid farming facility. This
10 subsection does not prohibit the sale, breeding, marketing,
11 exhibition or other uses of captive cervids approved by the
12 department.

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

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

19 (d) Any person who violates subsection (a) or (b) of this
20 section is guilty of a misdemeanor and, upon conviction thereof,
21 shall be fined not more than \$300, confined in jail for not more
22 than ninety days, or both fine and confined, for a first offense.
23 A second or subsequent offense is a misdemeanor and, is punishable

1 by a fine of not more than \$1,000, confinement for not more than
2 one year, or both fined and confined.

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

9 **§19-2H-15. Findings of violations; remedies.**

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

12 (1) Issue a warning; or

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

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

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

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

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

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

4 **§19-29-2. Definitions.**

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

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

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

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

20 **CHAPTER 20. NATURAL RESOURCES.**

21 **ARTICLE 1. ORGANIZATION AND ADMINISTRATION.**

22 **§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 state
4 government, however designated 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
7 wildlife which may be taken, caught, killed or possessed by any
8 person.

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

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

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

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

19 "Commission" means the Natural Resources Commission.

20 "Commissioner" means a member of the advisory commission of
21 the Natural Resources Commission.

22 "Director" means the Director of the Division of Natural
23 Resources.

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

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

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

11 "Game animals" include: (a) The elk; (b) the deer; (c) the
12 cottontail rabbits and hares; (d) the fox squirrels, commonly
13 called red squirrels, and gray squirrels and all their color phases
14 - red, gray, black or albino; (e) the raccoon; (f) the black bear;
15 and (g) the wild boar. The term "game animals" does not include
16 privately owned cervid and all its subspecies that are kept
17 pursuant to article two-h, chapter nineteen of this code.

18 "Game birds" include: (a) The anatidae, commonly known as
19 swan, geese, brants and river and sea ducks; (b) the rallidae,
20 commonly known as rails, sora, coots, mudhens and gallinule; (c)
21 the limicolae, commonly known as shorebirds, plover, snipe,
22 woodcock, sandpipers, yellow legs and curlews; (d) the galliformes,
23 commonly known as wild turkey, grouse, pheasants, quails and

1 partridges (both native and foreign species); (e) the columbidae,
2 commonly known as doves; (f) the icteridae, commonly known as
3 blackbirds, redwings and grackle; and (g) the corvidae, commonly
4 known as crows.

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

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

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

19 "Migratory birds" means any migratory game or nongame birds
20 included in the terms of conventions between the United States and
21 Great Britain and between the United States and United Mexican
22 States, known as the Migratory Bird Treaty Act, for the protection
23 of migratory birds and game mammals concluded, respectively, August

1 16, 1916, and February 7, 1936.

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

8 "Open season" means the time during which the various species
9 of wildlife may be legally caught, taken, killed or chased in a
10 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
13 chapter, means the plural "persons" and shall include individuals,
14 partnerships, corporations or other legal entities.

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

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

23 "Resident" means any person who is a citizen of the United

1 States and who has been a domiciled resident of the State of West
2 Virginia for a period of thirty consecutive days or more
3 immediately prior to the date of his or her application for license
4 or permit. ~~Provided, That~~ However, a member of the Armed Forces of
5 the United States who is stationed beyond the territorial limits of
6 this state, but who was a resident of this state at the time of his
7 or her entry into such service and any full-time student of any
8 college or university of this state, even though he or she is
9 paying a nonresident tuition, shall be considered a resident under
10 ~~the provisions of~~ this chapter.

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

16 "Small game" includes all game animals, furbearing animals and
17 game birds except elk, deer, black bears, wild boars and wild
18 turkeys.

19 "Take" means to hunt, shoot, pursue, lure, kill, destroy,
20 catch, capture, keep in captivity, gig, spear, trap, ensnare, wound
21 or injure any wildlife, or attempt to do so. ~~Provided, That~~
22 However, the definition of "take" does not include an officially
23 sanctioned and properly licensed field trial, water race or wild

1 hunt as long as that field trial is not a shoot-to-retrieve field
2 trial.

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

5 "Wild animals" means all mammals native to the State of West
6 Virginia occurring either in a natural state or in captivity,
7 except house mice or rats. The term "wild animals" does not
8 include privately-owned cervid and all its subspecies that are kept
9 pursuant to article two-h, chapter nineteen of this code.

10 "Wild birds" shall include all birds other than: (a) Domestic
11 poultry - chickens, ducks, geese, guinea fowl, peafowls and
12 turkeys; (b) psittacidae, commonly called parrots and parakeets;
13 and (c) other foreign cage birds such as the common canary, exotic
14 finches and ring dove. All wild birds, either: (i) Those
15 occurring in a natural state in West Virginia; or (ii) those
16 imported foreign game birds, such as waterfowl, pheasants,
17 partridges, quail and grouse, regardless of how long raised or held
18 in captivity, shall remain wild birds under the meaning of this
19 chapter.

20 "Wildlife" means wild birds, wild animals, game and
21 fur-bearing animals, fish (including minnows,) reptiles,
22 amphibians, mollusks, crustaceans and all forms of aquatic life
23 used as fish bait, whether dead or alive. The term "wildlife" does

1 not include privately owned cervid and all its subspecies that are
2 kept pursuant to article two-h, chapter nineteen of this code.

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

6 **ARTICLE 2. WILDLIFE RESOURCES.**

7 **§20-2-11. Sale of wildlife; transportation of same.**

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

1 ~~Provided, however, That~~ In addition, the hide, head, antlers and
2 feet of a legally killed deer and the hide, head and skull of a
3 legally killed black bear may be sold.

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

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

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

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

21 (a) A person may not transport or have in his or her
22 possession with the intention of transporting beyond the limits of
23 the state any species of wildlife or any part thereof killed,

1 taken, captured or caught within this state, except as provided in
2 this section.

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

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

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

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

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

21 (c) A person ~~violating~~ who violates ~~the provisions of~~ this
22 section by transporting or possessing with the intention of
23 transporting beyond the limits of this state deer or wild boar

1 shall be ~~deemed~~ considered to have committed a separate offense for
2 each animal so transported or possessed. This section does not
3 apply to privately-owned cervid or any of its subspecies that are
4 kept pursuant to article two-h, chapter nineteen of this code.

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

9 (e) This section does not apply to persons legally entitled to
10 propagate and sell wild animals, wild birds, fish, amphibians and
11 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.)