



# Ohio Legislative Service Commission

## Final Analysis

Eric Vendel

### Am. H.B. 389

129th General Assembly  
(As Passed by the General Assembly)

**Reps.** Hall and Okey, Letson, Grossman, Boose, Conditt, Thompson, Buchy, Combs, Murray, O'Brien, Peterson, C. Hagan, McClain, Amstutz, Slaby, Landis, R. Adams, Barnes, Blessing, Bubb, Carney, Clyde, Derickson, Fedor, Fende, Gardner, Garland, Gerberry, Goyal, Hackett, Henne, Hill, Johnson, Kozlowski, Luckie, Lundy, Mallory, Milkovich, Newbold, Phillips, Pillich, Ramos, Roegner, Ruhl, Sears, Sprague, Szollosi, Uecker, Weddington, Young, Yuko, Batchelder

**Sens.** Hite, Schaffer, Balderson, Beagle, Burke, Cafaro, Coley, Faber, Gentile, LaRose, Niehaus, Patton, Seitz, Wagoner

**Effective date:** June 29, 2012

---

## ACT SUMMARY

### Authority of Department of Agriculture to regulate captive deer

- Requires a person desiring to propagate captive deer with status or captive deer with certified chronic wasting disease status to obtain a license under the Livestock Dealers Law in addition to a captive white-tailed deer propagation license under the Hunting and Fishing Law, and defines those two categories of captive deer.
- Requires a person desiring to operate a wild animal hunting preserve on which monitored captive deer, captive deer with status, or captive deer with certified chronic wasting disease status are released and hunted to obtain a license under the Livestock Dealers Law in addition to a wild animal hunting preserve license issued under the Hunting and Fishing Law, and defines "monitored captive deer."
- Requires either type of captive whitetail deer licensee to have monitored captive deer, captive deer with status, and captive deer with certified chronic wasting disease status in the licensee's herd to be tested for disease in accordance with rules adopted under the act.
- Requires the Director of Agriculture to take actions that are necessary to mitigate or eliminate diseases regarding monitored captive deer, captive deer with status, or

captive deer with certified chronic wasting disease status at a facility owned by a captive whitetail deer licensee.

- Requires the Director to adopt rules necessary to implement the act, including health monitoring and disease testing of deer, record-keeping requirements, tagging requirements, requirements governing certification of captive deer with certified chronic wasting disease, and other related requirements.
- Authorizes the Director to suspend or revoke a license issued under the Livestock Dealers Law regarding monitored captive deer, captive deer with status, or captive deer with certified chronic wasting disease status if the licensee fails to comply with the act's applicable requirements.
- Authorizes the Director or the Director's authorized representative to enter at reasonable times on the premises of a captive whitetail deer licensee to conduct investigations and inspections or to execute duties that are necessary for administration and enforcement.
- Includes monitored captive deer, captive deer with status, and captive deer with certified chronic wasting disease status in the statutes addressing agricultural terrorism and authorizing voluntary inspection of certain meat processing establishments.

### **Authority of Division of Wildlife to regulate captive deer**

- Creates a captive white-tailed deer propagation license, which permits the licensee to propagate captive white-tailed deer, hold the animals in captivity, and sell the animals and carcasses; establishes a license fee of \$40; specifies that the license is valid until the licensee ceases to hold such deer or it is revoked; and defines "captive white-tailed deer."
- Establishes construction requirements for an authorized enclosure with which a person must comply in order to submit an application for a captive white-tailed deer propagation license, and requires the Division of Wildlife to inspect the enclosure.
- Authorizes a licensee to place captive white-tailed deer in the authorized enclosure after all of the following have occurred:
  - The licensee has received a captive white-tailed deer propagation license;
  - The licensee has received a license under the Livestock Dealers Law; and
  - The licensee has demonstrated to the Chief of the Division of Wildlife that each captive white-tailed deer held by the licensee was legally acquired.

- Authorizes the Division to inspect a facility to which a captive white-tailed deer propagation license has been issued only at reasonable times and when the inspection is in connection with a criminal investigation.
- Authorizes the Chief, with the approval of the Director of Agriculture, to suspend or revoke a captive white-tailed deer propagation license for failure to comply with applicable laws and rules.
- Establishes record-keeping requirements for a holder of a captive white-tailed deer propagation license, and establishes penalties for falsifying a record.
- Authorizes a wild animal hunting preserve licensee to place captive white-tailed deer in the preserve after receiving all the required licenses and demonstrating to the Chief or the Chief's authorized representative that each captive white-tailed deer held by the licensee was legally acquired.
- States that a license issued for a wild animal hunting preserve in which only captive white-tailed deer are kept does not expire unless the license is revoked by the Chief rather than expiring on April 13 each year as is the case for other wild animal hunting preserve licenses under continuing law.

### **Division of Wildlife propagating licenses**

- Eliminates the raise to release propagating license, and revises additional requirements pertaining to commercial and noncommercial propagating licenses issued under the Hunting and Fishing Law.
- Revises record-keeping requirements for holders of noncommercial or commercial propagating licenses.

### **Division of Wildlife – wild animal hunting preserves**

- Revises the application requirements for a wild animal hunting preserve license issued by the Chief of the Division of Wildlife, and establishes an application fee of \$1,000 to replace the annual license fee of \$300 in former law.
- Requires, rather than allows as in prior law, the Chief to issue a wild animal hunting preserve license when specified conditions are satisfied, and adds a condition that an inspection of the proposed preserve be conducted by a Division representative to ensure that all wild white-tailed deer have been removed from the proposed preserve.

- Requires all wild white-tailed deer to be removed from a proposed preserve or be killed prior to the required inspection of the proposed preserve, and requires the applicant to submit a restitution fee to the Chief for any deer that were killed.
- Requires a license holder who wishes to continue operating the preserve to submit a license renewal form and include an annual renewal fee of \$200, rather than apply for a new license and pay the initial license fee of \$300 as in former law.
- Eliminates law that prohibited a wild animal hunting preserve from being located within 1,500 feet of a licensed commercial bird shooting preserve.
- Revises the fencing requirements for a wild animal hunting preserve by increasing the minimum height from six to eight feet and allowing a minimal deviation not to exceed 4% of the required height.
- Extends the authorized hours of hunting in a wild animal hunting preserve.
- Authorizes the Division of Wildlife to alter by rule the tagging requirements for game and nonnative wildlife released in a wild animal hunting preserve that are established in ongoing law.
- Prohibits the removal of game and nonnative wildlife from a wild animal hunting preserve unless the game or nonnative wildlife are being transferred to another wild animal hunting preserve in accordance with rules adopted by the Director of Agriculture under the act.
- Establishes record-keeping requirements for holders of wild animal hunting preserve licenses.
- Repeals the statute that stated that the statutes governing propagation licenses and hunting preserves did not supersede the laws requiring a resident license to hunt on preserves and that authorized a nonresident to hunt on a preserve without a nonresident hunting license.

### **Division of Wildlife rules to control disease**

- Revises the Division of Wildlife's authority to adopt rules for the control or eradication of parasites and diseases of animals on lands for which propagating or preserve licenses have been issued by:
  - Excluding captive white-tailed deer from game quadrupeds; and
  - Authorizing such rules for all game birds rather than only domesticated or semi-wild game birds as in prior law.

- States that the Hunting and Fishing Law, the Division of Wildlife Law, and Division rules do not supersede the authority of the Director of Agriculture under the Animal Diseases Law to prevent the spread of dangerously contagious or infectious diseases and to provide for the control and eradication of such diseases.

### **Tags or seals on wild animal carcasses**

- Repeals all of the following:
  - A requirement that the Division of Wildlife collect a nominal sum for each tag or seal affixed to carcasses of game birds, game quadrupeds, fur-bearing animals, and nonnative wildlife as provided in the statutes governing propagating licenses and hunting preserves;
  - A prohibition against the sale of a portion of such an animal without a tag; and
  - A prohibition against counterfeiting a tag issued by the Division in accordance with the statutes governing hunting preserves and for purposes of selling certain animals for food.

---

## **TABLE OF CONTENTS**

Overview.....	6
Authority of Department of Agriculture to regulate captive deer.....	6
Licenses required for captive deer propagation.....	6
Licenses required for captive deer on wild animal hunting preserves.....	7
Disease testing.....	8
Disease mitigation or elimination.....	8
Rules.....	8
Grandfathering of disease testing of captive deer with status and captive deer with certified chronic wasting disease status.....	9
Licensure under Livestock Dealers Law.....	10
License suspension or revocation.....	10
Investigations and inspections.....	11
Captive Deer Fund.....	11
Agricultural terrorism.....	11
Meat and Poultry Inspection Law.....	12
Authority of Division of Wildlife to regulate captive deer.....	12
Captive white-tailed deer propagation license.....	12
Authorized enclosure construction and inspection.....	13
Other inspections.....	14
Record-keeping.....	14
Suspension and revocation.....	14
Prohibition.....	14
Captive white-tailed deer held in wild animal hunting preserves.....	15
Placement of captive white-tailed deer in licensed preserve.....	15
Expiration.....	15
Record-keeping.....	15

Suspension and revocation .....	16
Division of Wildlife propagating licenses.....	16
Record-keeping.....	17
Division of Wildlife – wild animal hunting preserves .....	17
Licenses.....	17
Issuance.....	17
Inspection.....	18
Renewal .....	19
Hunting of game birds .....	19
Operation .....	19
Location .....	19
Fencing .....	19
Animals and hours of operation .....	20
Tagging .....	20
Removal of living game or nonnative wildlife .....	20
Record-keeping.....	20
Posting of license .....	21
Requirements for license to hunt on preserves .....	21
Division of Wildlife rules to control disease.....	21
Tags or seals on wild animal carcasses .....	22
Applicable definitions in continuing law .....	23

---

## **CONTENT AND OPERATION**

### **Overview**

The act establishes a new regulatory program governing captive white-tailed deer that are propagated, placed in hunting preserves, or both. Under the program, the Department of Agriculture is responsible for disease monitoring and control, and the Division of Wildlife in the Department of Natural Resources is responsible for ensuring that the facilities at which such deer are kept comply with statutory requirements. The act establishes three categories of such captive deer in the Department of Agriculture statutes and creates a general definition of such deer in the Division of Wildlife statutes. A person who wishes to propagate certain of such deer, place them in hunting preserves, or both must be licensed by both Departments. The act also includes such deer in other programs administered by the Department of Agriculture such as meat inspection. Finally, it makes additional changes in the statutes governing wild animal propagation and hunting preserves that are distinct from the new captive deer regulatory program.

### **Authority of Department of Agriculture to regulate captive deer**

#### **Licenses required for captive deer propagation**

The act requires a person who wishes to propagate captive deer with status or captive deer with certified chronic wasting disease status to obtain a license as a dealer

or broker or as a small dealer under the Livestock Dealers Law in addition to a captive white-tailed deer propagation license issued under the Hunting and Fishing Law (see "**Authority of Division of Wildlife concerning captive white-tailed deer; Captive white-tailed deer propagation license**," below).<sup>1</sup> The act defines "captive deer with status" as captive white-tailed deer that have been legally acquired or their offspring, are part of a herd that is monitored and tested for disease in accordance with rules, and are privately owned primarily for the purposes of agriculture, propagation, or providing captive deer to a licensed wild animal hunting preserve.<sup>2</sup> It also defines "captive deer with certified chronic wasting disease status" as captive white-tailed deer that have been legally acquired or their offspring, are part of a herd that has been monitored and tested for disease in accordance with rules, including tested for chronic wasting disease for at least five consecutive years in accordance with rules, are privately owned primarily for the purposes of agriculture, propagation, or providing deer to a licensed wild animal hunting preserve, and are certified "with status" in accordance with rules.<sup>3</sup> The act defines "chronic wasting disease" to have the same meaning as in federal regulations that define it as a transmissible spongiform encephalopathy of cervids.<sup>4</sup>

### **Licenses required for captive deer on wild animal hunting preserves**

The act requires a person who wishes to operate a wild animal hunting preserve on which monitored captive deer, captive deer with status, or captive deer with certified chronic wasting disease status are released and hunted to obtain a license as a dealer or broker or as a small dealer under the Livestock Dealers Law in addition to a wild animal hunting preserve license issued under the Hunting and Fishing Law (see "**Authority of Division of Wildlife concerning captive white-tailed deer; Captive white-tailed deer held in wild animal hunting preserves**," below).<sup>5</sup> The act defines "monitored captive deer" as whitetail deer that have been legally acquired or their offspring, are tested for chronic wasting disease in accordance with rules, and are held in private ownership for agricultural or personal purposes or in a licensed wild animal hunting preserve.<sup>6</sup>

---

<sup>1</sup> R.C. 943.20(A).

<sup>2</sup> R.C. 943.01(G).

<sup>3</sup> R.C. 943.01(H).

<sup>4</sup> R.C. 943.01(F).

<sup>5</sup> R.C. 943.20(B).

<sup>6</sup> R.C. 943.01(I).

## **Disease testing**

The act requires a captive whitetail deer licensee to have monitored captive deer, captive deer with status, and captive deer with certified chronic wasting disease status in the licensee's herd tested for disease in accordance with rules adopted under the act (see "**Rules**," below).<sup>7</sup> A licensee must provide the results of all testing required under the act to the Director of Agriculture.<sup>8</sup> Under the act, a captive whitetail deer licensee is a person who has been issued a license as a dealer or broker or as a small dealer under the Livestock Dealers Law and either a propagation license or a wild animal hunting preserve license under the Hunting and Fishing Law concerning monitored captive deer, captive deer with status, or captive deer with certified chronic wasting disease status.<sup>9</sup>

## **Disease mitigation or elimination**

The act requires the Director of Agriculture to take actions that are necessary to mitigate or eliminate the presence of chronic wasting disease or other disease at a facility owned by a captive whitetail deer licensee regarding monitored captive deer, captive deer with status, or captive deer with certified chronic wasting disease status if the Director is notified of a positive result from a test for chronic wasting disease or other disease for a captive deer in any of those categories at the facility.<sup>10</sup>

## **Rules**

The Director must adopt rules in accordance with the Administrative Procedure Act that establish all of the following:

(1) Requirements governing health monitoring and disease testing of monitored captive deer, captive deer with status, and captive deer with certified chronic wasting disease status, which testing may include, but is not limited to, testing for chronic wasting disease, brucellosis, and tuberculosis of such deer that are held at a propagation facility or wild animal hunting preserve licensed under the Hunting and Fishing Law;

(2) Requirements governing captive whitetail deer licensees, including record-keeping requirements related to health monitoring and disease testing of monitored

---

<sup>7</sup> R.C. 943.21(A).

<sup>8</sup> R.C. 943.21(B).

<sup>9</sup> R.C. 943.01(E).

<sup>10</sup> R.C. 943.22.

captive deer, captive deer with status, and captive deer with certified chronic wasting disease status;

(3) Requirements and procedures that are necessary to preserve the health, safety, and welfare of monitored captive deer, captive deer with status, or captive deer with certified chronic wasting disease status;

(4) Requirements and procedures governing the transfer of living game and nonnative wildlife from one licensed wild animal hunting preserve to another licensed wild animal hunting preserve (see "**Wild animal hunting preserve operational requirements; Removal of living game or nonnative wildlife**," below);

(5) Tagging requirements for captive deer with status and captive deer with certified chronic wasting disease status for such deer that are propagated pursuant to a captive white-tailed deer propagation license issued under the Hunting and Fishing Law;

(6) Requirements governing the certification of captive deer with certified chronic wasting disease status; and

(7) Any other requirements or procedures that are necessary to administer and enforce the act's provisions governing the regulation of monitored captive deer, captive deer with status, and captive deer with certified chronic wasting disease status by the Department of Agriculture.<sup>11</sup>

**Grandfathering of disease testing of captive deer with status and captive deer with certified chronic wasting disease status**

The act requires the rules adopted under the act by the Director to allow captive deer with status that have been certified or that are in the process of being certified pursuant to federal regulations prior to the act's effective date to retain that certification or to continue the process of certification, provided that the captive whitetail deer licensee who owns the deer continues to comply with federal regulations, the act's provisions, and rules adopted under the act.<sup>12</sup>

The act also requires a captive whitetail deer licensee that has tested each captive deer with status and captive deer with certified chronic wasting disease status in the licensee's herd for brucellosis and tuberculosis during the 12 months preceding the act's effective date, but not prior to those 12 months, according to records maintained by the

---

<sup>11</sup> R.C. 943.24.

<sup>12</sup> Section 3(C).

Department of Agriculture, to test each such deer for brucellosis and tuberculosis one time during the 12 months immediately following the act's effective date. Thereafter, a licensee must have each captive deer with status and captive deer with certified chronic wasting disease status in the licensee's herd tested for brucellosis and tuberculosis in accordance with rules adopted under the act as discussed above.<sup>13</sup> The act additionally requires a captive whitetail deer licensee that has tested each captive deer with status and captive deer with certified chronic wasting disease status in the licensee's herd annually for brucellosis and tuberculosis for two or more years prior to the act's effective date, according to records maintained by the Department, thereafter to test the deer for brucellosis and tuberculosis in accordance with rules adopted under the act.<sup>14</sup>

### **Licensure under Livestock Dealers Law**

As indicated above, the act requires a person who wishes to propagate certain captive deer or operate a wild animal hunting preserve on which certain captive deer are released and hunted to be licensed under the Livestock Dealers Law. That Law prohibits anyone, with specified exceptions, from acting as a small dealer, dealer, or broker, that is, from buying, receiving, selling, slaughtering, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of certain agricultural animals in specified amounts, without a license issued under that Law. The act includes monitored captive deer, captive deer with status, and captive deer with certified chronic wasting disease status as agricultural animals in that Law. It then requires licensure as a dealer or broker for anyone conducting any of the above activities in an amount of more than 500 head of such deer in any one year or licensure as a small dealer with regard to less than 500 head of such deer in any one year.<sup>15</sup>

### **License suspension or revocation**

The act requires a captive whitetail deer licensee to comply with applicable requirements established in the act and rules adopted under it. The act authorizes the Director of Agriculture to suspend or revoke a license issued under the Livestock Dealers Law regarding monitored captive deer, captive deer with status, or captive deer with certified chronic wasting disease status if the licensee fails to comply with those requirements.<sup>16</sup>

---

<sup>13</sup> Section (B)(1).

<sup>14</sup> Section (B)(2).

<sup>15</sup> R.C. 943.01 (A), (B), and (D) and 943.02, not in the act.

<sup>16</sup> R.C. 943.23.

## **Investigations and inspections**

The act authorizes the Director or the Director's authorized representative to enter at reasonable times on the premises of a captive whitetail deer licensee to conduct investigations and inspections or to otherwise execute duties that are necessary for the administration and enforcement of the act's provisions and rules discussed above.<sup>17</sup>

## **Captive Deer Fund**

The act creates the Captive Deer Fund in the state treasury consisting of all money collected through the issuance of licenses under the Livestock Dealers Law to captive whitetail deer licensees. The Director must use money in the Fund to administer the above provisions.<sup>18</sup>

## **Agricultural terrorism**

The act includes monitored captive deer, captive deer with status, and captive deer with certified chronic wasting disease status as agricultural products in the statute that generally prohibits any person from committing a specified offense involving any agricultural product or equipment with the intent to intimidate or coerce a civilian population, influence the policy of any government by intimidation or coercion, affect the conduct of any government, or interrupt or interfere with agricultural production, agricultural research, or equipment for purposes of disrupting or influencing, through intimidation or other means, consumer confidence or agricultural production methods. A specified offense is aggravated arson, arson, vandalism, criminal damaging or endangering, criminal mischief, breaking and entering, criminal trespass, theft, tampering with records, or the unauthorized use of property or of computer, cable, or telecommunication property or service or an attempt to commit, complicity in committing, or a conspiracy to commit one of those offenses. An agricultural product is any of specified agricultural animals and products that are produced for testing or research in the context of a product development program in conjunction or coordination with a private research facility, a university, or any federal, state, or local governmental agency or that are produced for personal, commercial, pharmaceutical, or educational purposes.<sup>19</sup>

---

<sup>17</sup> R.C. 943.25.

<sup>18</sup> R.C. 943.26.

<sup>19</sup> R.C. 901.511.

## Meat and Poultry Inspection Law

The act authorizes meat establishments that slaughter or otherwise prepare meat of monitored captive deer, captive deer with status, or captive deer with certified chronic wasting disease status for human food to receive voluntary state inspection under the Meat and Poultry Inspection Law. Under continuing law, establishments that slaughter or otherwise prepare meat of bison, cervidea, other bovidea, camelidae and hybrids, ratites, domestic rabbits, domestic deer (i.e. nonnative deer), or other animals specified by the Director of Agriculture may receive voluntary state inspection. Such an establishment must comply with the Meat and Poultry Inspection Law and rules adopted under it and must pay the costs of the inspection.<sup>20</sup>

## Authority of Division of Wildlife to regulate captive deer

The act defines "captive white-tailed deer" for the purposes of the Hunting and Fishing Law as legally acquired deer that are held in private ownership at a facility that is licensed under the Livestock Dealers Law as discussed above and under the Hunting and Fishing Law as either a captive white-tailed deer propagator or a wild animal hunting preserve.<sup>21</sup>

## Captive white-tailed deer propagation license

Law retained in part by the act requires anyone who wishes to raise game quadrupeds, among other specified animals, to obtain one of three types of propagating licenses issued by the Division of Wildlife (see "**Division of Wildlife propagating licenses**," below). The act revises that licensing structure with regard to captive white-tailed deer by excluding those deer from the list of animals concerning which one of those licenses must be obtained, requiring a person who wishes to propagate those deer to obtain a license under the Livestock Dealers Law as discussed above, and establishing a captive white-tailed deer propagation license that such a person must obtain from the Division. The new license permits the licensee to propagate captive white-tailed deer, hold the animals in captivity, and sell the animals and carcasses. The license fee is \$40. The license is valid until the licensee ceases to hold captive white-tailed deer or the license is revoked, whichever occurs earlier.<sup>22</sup>

---

<sup>20</sup> R.C. 918.12.

<sup>21</sup> R.C. 1533.01(GGG).

<sup>22</sup> R.C. 1533.71(A)(3).

### **Authorized enclosure construction and inspection**

Prior to applying for a captive white-tailed deer propagation license, a person who wishes to obtain such a license must construct an authorized enclosure that is surrounded by a fence that is eight feet in height with a minimal deviation not to exceed 4%, is constructed in a manner that prevents ingress and egress of deer, and is constructed of materials that are approved by the Chief of the Division of Wildlife in consultation with the Animal and Plant Health Inspection Service in the U.S. Department of Agriculture, the Department of Agriculture, and representatives of the cervid industry in Ohio. After constructing such an authorized enclosure in accordance with those requirements and Division of Wildlife rules, the person may submit an application for a captive white-tailed deer propagation license.

Not later than 30 days after the submission of the application, a representative from the Division must inspect the authorized enclosure to ensure compliance with the act's requirements and Division of Wildlife rules. If the applicant's authorized enclosure is not in compliance with all of the applicable requirements, the representative must inform the applicant in writing of the deficiencies not later than ten business days after the inspection. If the applicant corrects the deficiencies, the applicant must request a reinspection, which must be conducted not later than 30 days after the request.

If the applicant's authorized enclosure complies with all of the applicable requirements, the Chief must review the application and must issue or deny the license. If the Chief denies the license, the Chief must return the application to the applicant with an explanation of the reasons for denial. The applicant may correct the deficiencies in the application and submit a revised application. If the applicant corrects the deficiencies, the Chief must issue the license.

The act authorizes the licensee to place all of the licensee's deer in the authorized enclosure after the licensee receives a captive white-tailed deer propagation license and a license under the Livestock Dealers Law as discussed above and demonstrates to the Chief or the Chief's designee that each captive white-tailed deer held by the licensee was legally acquired. The licensee thereafter must comply with the Hunting and Fishing Law, the Division of Wildlife Law, Division of Wildlife rules, and the act's provisions discussed above governing regulation of captive deer by the Department of Agriculture and rules adopted under those provisions.<sup>23</sup>

---

<sup>23</sup> R.C. 1533.71(B).

### **Other inspections**

The act authorizes the Division of Wildlife to inspect a facility to which a captive white-tailed deer propagation license has been issued only at reasonable times and when the inspection is in connection with a criminal investigation.<sup>24</sup>

### **Record-keeping**

The act requires each holder of a captive white-tailed deer propagation license to maintain all records that are required in rules adopted by the Director of Agriculture under the act (see above). The records must be kept permanently on the premises stated in the license. The records also must be open for inspection by any authorized representative of the Department of Agriculture at all reasonable times and of the Division of Wildlife at all reasonable times in conjunction with an active criminal investigation.<sup>25</sup>

### **Suspension and revocation**

The Chief of the Division of Wildlife, with the approval of the Director of Agriculture, may suspend or revoke a captive white-tailed deer propagation license issued to a person who also has been issued a valid license under the Livestock Dealers Law for the same facility if the person fails to comply with the Hunting and Fishing Law, the Division of Wildlife Law, Division of Wildlife rules, and the act's provisions discussed above governing regulation of captive deer by the Department of Agriculture and rules adopted under those provisions.<sup>26</sup>

### **Prohibition**

The act prohibits the holder of a captive white-tailed deer propagation license from knowingly falsifying any record or tag that is required in rules adopted by the Director of Agriculture under the act (see above) or in rules adopted by the Division of Wildlife.<sup>27</sup> A violator is guilty of a third degree misdemeanor.<sup>28</sup>

---

<sup>24</sup> R.C. 1533.71(C).

<sup>25</sup> R.C. 1533.77(B).

<sup>26</sup> R.C. 1533.71(D).

<sup>27</sup> R.C. 1533.77(C).

<sup>28</sup> R.C. 1533.99.

## **Captive white-tailed deer held in wild animal hunting preserves**

In addition to statutory requirements revised by the act concerning a wild animal hunting preserve (see "**Division of Wildlife – wild animal hunting preserves**," below), the act establishes requirements concerning captive white-tailed deer held in a wild animal hunting preserve.

### **Placement of captive white-tailed deer in licensed preserve**

The act allows a wild animal hunting preserve licensee to place all of the licensee's captive white-tailed deer in the preserve after the licensee has done all of the following:

- (1) Received the initial license for the wild animal hunting preserve;
- (2) Received a license under the Livestock Dealers Law as discussed above; and
- (3) Demonstrated to the Chief or the Chief's designee that each captive white-tailed deer held by the licensee was legally acquired.<sup>29</sup>

In addition, the act requires a wild animal hunting preserve licensee holding captive white-tailed deer in the preserve to comply with the Hunting and Fishing Law, the Division of Wildlife Law, Division of Wildlife rules, and the act's provisions discussed above governing regulation of captive deer by the Department of Agriculture and rules adopted under those provisions.<sup>30</sup>

### **Expiration**

The act states that a license issued for a wild animal hunting preserve in which only captive white-tailed deer are kept does not expire unless the license is revoked by the Chief in accordance with the act's provisions discussed below.<sup>31</sup>

### **Record-keeping**

The holder of a wild animal hunting preserve license who has captive white-tailed deer in the preserve must keep a record of all known escapes of those deer, deaths of those deer that were not a result of hunting, and laboratory results for testing

---

<sup>29</sup> R.C. 1533.721(F).

<sup>30</sup> R.C. 1533.721(F).

<sup>31</sup> R.C. 1533.721(G).

for chronic wasting disease of those deer that is required by the act and rules adopted under it (see above).<sup>32</sup>

### **Suspension and revocation**

The act authorizes the Chief, with the approval of the Director of Agriculture, to suspend or revoke a wild animal hunting preserve license issued to a person who also has been issued a valid license for that preserve under the Livestock Dealers Law if the person fails to comply with the Hunting and Fishing Law, the Division of Wildlife Law, Division of Wildlife rules, and the act's provisions discussed above governing regulation of captive deer by the Department of Agriculture and rules adopted under those provisions.<sup>33</sup>

### **Division of Wildlife propagating licenses**

As indicated above, under law retained in part by the act, a person desiring to engage in the business of raising and selling game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in a wholly enclosed preserve of which the person is the owner or lessee, or to have game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in captivity, must apply in writing to the Division of Wildlife for a license to do so (see "**Applicable definitions in continuing law**," below). The act eliminates the raise to release license, which permitted duly organized clubs, associations, or individuals approved by the Division to engage in the raising of game birds, game quadrupeds, or fur-bearing animals for release only and not for sale or personal use.<sup>34</sup>

The act retains the following two types of propagating licenses:

(1) Commercial propagating license, which permits the licensee to propagate game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in the wholly enclosed preserve the location of which is stated in the license and the application for it and to sell the propagated game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals and ship them from the state alive at any time, and which also permits the licensee and the licensee's employees to kill the propagated game birds, game quadrupeds, or fur-bearing animals and sell the carcasses for food.<sup>35</sup>

---

<sup>32</sup> R.C. 1533.731(F).

<sup>33</sup> R.C. 1533.721(H).

<sup>34</sup> R.C. 1533.71(C).

<sup>35</sup> R.C. 1533.71(A)(1).

(2) Noncommercial propagating license, which permits the licensee to propagate game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals and to hold the animals in captivity. Game birds, game quadrupeds, reptiles, amphibians, and fur-bearing animals propagated or held in captivity by authority of a noncommercial propagating license are for the licensee's own use and cannot be sold.<sup>36</sup>

With regard to propagating licenses, the act requires a person to submit an application rather than apply in writing as in former law. In addition, the act states that the requirement to obtain a propagating license does not apply to a person who possesses wild animals under the authority of a license for a wild animal hunting preserve (see "**Division of Wildlife – wild animal hunting preserves**," below) or a commercial bird shooting preserve issued under ongoing law.<sup>37</sup>

### **Record-keeping**

The act revises law largely retained by the act by requiring each holder of a noncommercial or commercial propagating license, rather than each holder of a propagating license, to keep the license prominently displayed at the place of business specified in the license and to keep certain accurate written records. The act requires the records to include the number of animals that escaped, the number that were released, the number that died, and the name and address of each person or corporation from whom or to whom the animals were received as a gift or given as a gift. Continuing law also requires the written records to include the total number of animals possessed on the date of application for the license, the number subsequently propagated or acquired by purchase or gift, the name and address of each person or corporation from whom or to whom the animals were purchased or sold alive or sold for food, and the date of each transaction.<sup>38</sup>

## **Division of Wildlife – wild animal hunting preserves**

### **Licenses**

#### **Issuance**

Continuing law prohibits anyone from operating a wild animal hunting preserve without first obtaining a wild animal hunting preserve license issued by the Chief of the Division of Wildlife.<sup>39</sup> The act requires an application to be accompanied by a license

---

<sup>36</sup> R.C. 1533.71(A)(2).

<sup>37</sup> R.C. 1533.71.

<sup>38</sup> R.C. 1533.77(A).

<sup>39</sup> R.C. 1533.721(A).

application fee of \$1,000, rather than an annual license fee of \$300 as in former law. The act eliminates requirements that the application contain a description of the lands that were to constitute the preserve and a description of the tag and symbol identifying the preserve, but retains requirements that the application contain a list of the species of game and nonnative wildlife that are to be released for hunting in the preserve and any other information required by the Chief.<sup>40</sup>

The act requires, rather than allows as in prior law, the Chief to issue to an applicant a wild animal hunting preserve license, upon payment of the application fee, rather than the license fee as in former law, if all of the following conditions established in continuing law are met:

(1) The operation of the preserve does not conflict with a prior reasonable public interest;

(2) The proposed preserve meets statutory requirements concerning the physical dimensions, location, fencing, and signs for wild animal hunting preserves (see below); and

(3) The applicant is the owner or lessee of the land described in the application and maintains that status until the license expires.<sup>41</sup>

The act adds a fourth condition under which the proposed wild animal hunting preserve has to have been inspected by a representative of the Division of Wildlife to ensure that all wild white-tailed deer have been removed from the proposed preserve before any game or nonnative wildlife are released into the preserve.<sup>42</sup> The deer must be removed using a method that is approved by the Chief prior to the required inspection. All wild white-tailed deer that cannot be removed from the proposed preserve must be killed, and the applicant must submit a restitution fee to the Chief in accordance with continuing law.<sup>43</sup>

### **Inspection**

The act requires inspection of a proposed wild animal hunting preserve to be conducted and approval or disapproval of an initial license for the preserve to be made

---

<sup>40</sup> R.C. 1533.721(B).

<sup>41</sup> R.C. 1533.721(C).

<sup>42</sup> R.C. 1533.721(C).

<sup>43</sup> R.C. 1533.721(D).

between January 1 and March 31 of the year in which the applicant first intends to operate the preserve.<sup>44</sup>

### **Renewal**

Under law unchanged by the act, licenses expire on April 30 each year. The act requires a license holder wishing to own or operate a wild animal hunting preserve in the year following the license expiration to submit a license renewal form prescribed by the Chief and include an annual renewal fee of \$200. Prior law required such a license holder to apply for a new license and pay the initial license fee of \$300.<sup>45</sup>

### **Hunting of game birds**

The act specifically authorizes the hunting of game birds in a licensed wild animal hunting preserve if the licensee also possesses a valid commercial bird shooting preserve license issued under ongoing law for the same land for which the wild animal hunting preserve license was issued. Former law precluded the hunting of game birds in a licensed wild animal hunting preserve.<sup>46</sup>

### **Operation**

#### **Location**

The act removes the prohibition in former law against locating a wild animal hunting preserve within 1,500 feet of a licensed commercial bird shooting preserve. It retains the prohibition in ongoing law against locating a wild animal hunting preserve within 1,500 feet of another such preserve.<sup>47</sup>

#### **Fencing**

The act revises statutory fencing requirements by requiring a wild animal hunting preserve to be surrounded by a fence at least eight feet in height with a minimal deviation not to exceed 4%. Former law required such a fence to be at least six feet in height and did not specify a minimal deviation. The act retains the requirement that the fence be constructed of a woven wire mesh and the option for a preserve to be surrounded by another enclosure approved by the Chief.<sup>48</sup>

---

<sup>44</sup> R.C. 1533.721(E).

<sup>45</sup> R.C. 1533.721(G)(1).

<sup>46</sup> R.C. 1533.721(I) and 1533.731(K).

<sup>47</sup> R.C. 1533.731(A).

<sup>48</sup> R.C. 1533.731(A).

### **Animals and hours of operation**

The act retains ongoing law authorizing the release and hunting within a licensed wild animal hunting preserve of game and nonnative wildlife that have been approved by the Chief and that have been legally acquired or propagated under the authority of a propagating license. It also authorizes the release and hunting of such animals that have been propagated within the confines of a licensed preserve. In addition, the act authorizes the release and hunting between one-half hour before sunrise and one-half hour after sunset rather than between sunrise and sunset as in former law. Finally, the act specifies that the hunting must be conducted by hunters rather than licensed hunters as in former law (see "**Laws requiring license to hunt,**" below).<sup>49</sup>

### **Tagging**

The act retains law stating that all game and nonnative wildlife released on a wild animal hunting preserve must be identified with a tag that bears a symbol identifying the preserve. However, it provides the Division authority to adopt rules that alter the tagging requirement.<sup>50</sup>

### **Removal of living game or nonnative wildlife**

The act prohibits a person from removing living game or nonnative wildlife from a wild animal hunting preserve unless the game or nonnative wildlife are being transferred to another wild animal hunting preserve in accordance with rules adopted by the Director of Agriculture under the act (see above).<sup>51</sup>

### **Record-keeping**

The act requires the holder of a wild animal hunting preserve license to keep a record of all animals that have been released into the preserve. The record must include all of the following:

- (1) The date on which each animal was released into the preserve;
- (2) The number of each species of animals;
- (3) The number of males and females of each species of animals; and

---

<sup>49</sup> R.C. 1533.731(B)(1).

<sup>50</sup> R.C. 1533.731(C).

<sup>51</sup> R.C. 1533.731(D).

(4) The name and address of each person from whom each animal was obtained.

In addition, the licensee must record in a manner specified by the Division the name and address of each person that takes any game or nonnative wildlife from the preserve. The licensee must maintain those records for two years and make them available for inspection by the Division at all reasonable times in conjunction with an active criminal investigation.<sup>52</sup>

### **Posting of license**

The act requires the holder of a wild animal hunting preserve license to display the license prominently at the place of business that is specified in the license.<sup>53</sup>

### **Requirements for license to hunt on preserves**

The act repeals the statute that did both of the following: (1) stated that the statutes governing propagation licenses and hunting preserves did not supersede the laws requiring a resident license to hunt, and (2) authorized a nonresident to hunt on a commercial bird shooting preserve or a wild animal hunting preserve without having obtained a nonresident hunting license otherwise required by the Hunting and Fishing Law. Thus, under the act, a resident may no longer need a license to hunt on a preserve, and a nonresident must obtain a nonresident hunting license to hunt on a preserve.<sup>54</sup>

### **Division of Wildlife rules to control disease**

Law largely retained by the act authorizes the Chief of the Division of Wildlife to adopt rules that the Chief considers necessary to control or eradicate parasites and diseases of domesticated or semi-wild game birds, game quadrupeds, fur-bearing animals, or nonnative wildlife on lands for which propagating licenses or wild animal hunting preserve licenses have been issued. The act excludes captive white-tailed deer from game quadrupeds, thus precluding the Chief from adopting such rules concerning captive white-tailed deer. The act also eliminates the description of game birds as domesticated or semi-wild, thus authorizing the Chief to adopt such rules for all game birds.<sup>55</sup> Finally, the act states that the Hunting and Fishing Law, the Division of Wildlife Law, and Division rules do not supersede the authority of the Director of Agriculture

---

<sup>52</sup> R.C. 1533.731(E).

<sup>53</sup> R.C. 1533.731(H).

<sup>54</sup> R.C. 1533.80, repealed.

<sup>55</sup> R.C. 1533.79(A).

under the Animal Diseases Law to prevent the spread of dangerously contagious or infectious diseases and to provide for the control and eradication of such diseases.<sup>56</sup>

### **Tags or seals on wild animal carcasses**

Law retained in part by the act prohibits the sale of game birds, game quadrupeds, or fur-bearing animals for food unless the carcass of each bird or animal is tagged with a suitable tag or seal supplied by the Division of Wildlife. The act specifies that the prohibition applies to game birds, game quadrupeds, or fur-bearing animals held under the authority of a Division of Wildlife propagating license, commercial bird shooting preserve license, or wild animal hunting preserve license. In addition, the act eliminates the requirement that the Division supply the tag or seal and instead states that the Division approve the tag or seal.<sup>57</sup>

Finally, the act repeals the statute that did all of the following:

(1) Required the Division of Wildlife to receive and collect a nominal sum for each tag or seal affixed to the carcasses of game birds, game quadrupeds, fur-bearing animals, and nonnative wildlife as provided in the statutes governing propagating licenses and hunting preserves;

(2) Required each tag or seal to remain affixed until the carcass was finally prepared for consumption;

(3) Stated that the sale of a portion of a game bird, game quadruped, fur-bearing animal, or nonnative wildlife that did not at the time have affixed to it the tag or seal constituted a violation of those statutes;

(4) Authorized the keeper of a hotel, restaurant, or boarding house, a retail dealer in meat, or a club to sell a portion of a game bird, game quadruped, fur-bearing animal, or nonnative wildlife so tagged to a guest, customer, or member for consumption;

(5) Prohibited a person from counterfeiting a tag issued by the Division in accordance with the statutes governing hunting preserves or for purposes of selling animals for food as discussed above; and

(6) Prohibited a tag issued by the Division to be affixed to the carcass of a game bird, game quadruped, fur-bearing animal, or nonnative wildlife not propagated or

---

<sup>56</sup> R.C. 1533.79(B).

<sup>57</sup> R.C. 1533.74.

acquired in accordance with the statutes governing propagating licenses and hunting preserves.<sup>58</sup>

### **Applicable definitions in continuing law**

Continuing law defines all of the following:

"Game" includes game birds, game quadrupeds, and fur-bearing animals.<sup>59</sup>

"Game birds" includes mourning doves, ringneck pheasants, bobwhite quail, ruffed grouse, sharp-tailed grouse, pinnated grouse, wild turkey, Hungarian partridge, Chukar partridge, woodcocks, black-breasted plover, golden plover, Wilson's snipe or jacksnipe, greater and lesser yellowlegs, rail, coots, gallinules, duck, geese, brant, and crows.<sup>60</sup>

"Game quadrupeds" includes cottontail rabbits, gray squirrels, black squirrels, fox squirrels, red squirrels, flying squirrels, chipmunks, groundhogs or woodchucks, white-tailed deer, wild boar, and black bears.<sup>61</sup>

"Nonnative wildlife" means any wild animal not indigenous to Ohio, but does not include domestic deer.<sup>62</sup>

"Wild animals" includes mollusks, crustaceans, aquatic insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, and all other wild mammals, but does not include domestic deer.<sup>63</sup>

"Domestic deer" means nonnative deer that have been legally acquired or their offspring and that are held in private ownership for primarily agricultural purposes.<sup>64</sup>

---

<sup>58</sup> R.C. 1533.75, repealed.

<sup>59</sup> R.C. 1531.01(R).

<sup>60</sup> R.C. 1531.01(S).

<sup>61</sup> R.C. 1531.01(V).

<sup>62</sup> R.C. 1531.01(VV).

<sup>63</sup> R.C. 1531.01(X).

<sup>64</sup> R.C. 1531.01(ZZ).

---

## HISTORY

ACTION	DATE
Introduced	12-01-11
Reported, H. Agriculture & Natural Resources	12-13-11
Passed House (94-0)	12-14-11
Reported, S. Agriculture, Environment & Natural Resources	02-14-12
Passed Senate (31-0)	03-14-12

12-hb389-129.docx/jc

