

H. B. 2527

(By Delegates Michael, Hartman, Crosier,
Williams and D. Poling)

[Introduced January 18, 2011; referred to the
Committee on Natural Resources then the Judiciary.]

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

9 **CHAPTER 19. AGRICULTURE.**

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

11 **§19-2H-1. Short title.**

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

14 **§19-2H-2. Purpose and Legislative findings.**

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

22 (b) The Legislature finds and declares that captive cervid
 23 farming is primarily an agricultural pursuit which is separate from

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

16 **§19-2H-3. Definitions.**

17 As used in this article:

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

21 (b) "Captive cervid's or "captive cervids" means members of
22 the Cervidae family of animals including, but not limited to,
23 fallow deer, red deer, white-tail deer, axis deer, elk, moose,
24 reindeer and caribou which are domesticated animals under the

1 control of the owner of the animal.

2 (c) "Commissioner" means the Commissioner of the West Virginia
3 Department of Agriculture.

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

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

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

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

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

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

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

5 **§19-2H-4. Authority of the Department of Agriculture.**

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

13 **§19-2H-5. Captive cervid farming rules.**

14 (a) The commissioner shall propose legislative rules in
15 accordance with article three, chapter twenty-nine-a of this code
16 as are necessary to provide for implementation and enforcement of
17 this article. Any rules proposed by the commissioner before
18 September 1, 2011, may be by emergency rule.

19 (b) The rules, insofar as practicable, shall provide for the
20 protection of animal and human health and promotion of bio-security
21 which are consistent with the rules on those same subjects
22 promulgated by the United States Department of Agriculture,
23 division of animal and plant health inspection service, in order
24 that the rules promulgated pursuant to this section and similar

1 rules promulgated by the United States Department of Agriculture
2 may be harmoniously administered and applied to captive cervid
3 farming operations subject to both the applicable federal rules and
4 to rules promulgated under this section.

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

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

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

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

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

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

22 (6) Regulate the movement of captive cervids, and provide for
23 maintenance of documentation of the origin and destination of all
24 shipments and any other documentation required under the animal

1 industry laws of this state.

2 (7) Establish a schedule of fees and charges for services
3 provided by the department to licensed captive cervid farming
4 facilities, which fees and charges shall be set so that the costs
5 of regulation pursuant to this article are covered by the
6 combination of the fees and charges, license fees and any federal
7 and state grants and appropriations available for support of the
8 regulation of captive cervid farming operations.

9 **§19-2H-6. Duties and obligations of the commissioner.**

10 The commissioner or his or her designees may:

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

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

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

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

23 (5) Lease, rent, acquire, purchase, own, hold, construct,
24 equip, maintain, operate, sell, encumber and assign rights of any

1 property, real or personal, consistent with the objectives set
2 forth in this article;

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

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

11 **§19-2H-7. Application for license.**

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

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

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

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

23 (3) The bio-security measures to be utilized, including, but
24 not limited to, a description of the fencing and the animal

1 identification system to be used;

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

4 (5) The proposed record-keeping system;

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

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

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

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

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

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

17 **§19-2H-8. Departmental action on applications.**

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

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

4 (1) The facility has been inspected by the department and the
5 commissioner has determined that the facility and its proposed
6 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
9 governmental permits required for the facility and operations
10 subject to the license.

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

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

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

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

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

3 **§19-2H-9. License certificate; renewal; sale or transfer of**
4 **license.**

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

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

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

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

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

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

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

22 **§19-2H-10. License modification.**

23 An owner must apply to the department for a license
24 modification if there is any proposed change in the class of

1 license or the species approved for the licensed facility.

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

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

10 **§19-2H-12. Transition to captive cervid farming licenses; statutory**
11 **conflicts.**

12 (a) A captive cervid farming facility in existence on the
13 effective date of this article may continue operation under its
14 existing authorization until the department acts on its application
15 for a license under this article, provided the owner of that
16 facility makes application for a license under this article within
17 sixty days after application forms are available from the
18 department.

19 (b) Notwithstanding any other law to the contrary, an owner
20 or an owner's customer harvesting captive cervids from a licensed
21 captive cervid farming facility is not subject to any possession
22 limits laws, closed season laws, or hunting license requirements.
23 A license under this article does not give the licensee any right
24 to take free-ranging cervids unless it is done pursuant to a permit

1 issued by the Division of Natural Resources.

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

6 **§19-2H-13. Noncompliance with article, standards, orders or**
7 **rules; suspension, revocation or limitation of**
8 **license.**

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

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

15 (a) A person may not release or allow the release of any
16 captive cervids from a captive cervid farming facility. This
17 subsection does not prohibit the sale, breeding, marketing,
18 exhibition or other uses of captive cervids approved by the
19 department.

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

23 (c) A person may not intentionally or knowingly cause the

1 ingress of free-ranging cervids into a captive cervid farming
2 facility.

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

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

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

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

19 (1) Issue a warning; or

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

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

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

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

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

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

10 **§19-29-2. Definitions.**

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

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

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

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

1 as defined in this article.

2 **CHAPTER 20. NATURAL RESOURCES.**

3 **ARTICLE 1. ORGANIZATION AND ADMINISTRATION.**

4 **§20-1-2. Definitions.**

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

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

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

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

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

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

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

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

23 "Commission" means the Natural Resources Commission.

24 "Commissioner" means a member of the advisory commission of

1 the Natural Resources Commission.

2 "Director" means the Director of the Division of Natural
3 Resources.

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

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

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

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

21 "Game birds" include: (a) The anatidae, commonly known as
22 swan, geese, brants and river and sea ducks; (b) the rallidae,
23 commonly known as rails, sora, coots, mudhens and gallinule; (c)
24 the limicolae, commonly known as shorebirds, plover, snipe,

1 woodcock, sandpipers, yellow legs and curlews; (d) the galliformes,
2 commonly known as wild turkey, grouse, pheasants, quails and
3 partridges (both native and foreign species); (e) the columbidae,
4 commonly known as doves; (f) the icteridae, commonly known as
5 blackbirds, redwings and grackle; and (g) the corvidae, commonly
6 known as crows.

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

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

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

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

1 of migratory birds and game mammals concluded, respectively, August
2 16, 1916, and February 7, 1936.

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

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

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

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

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

24 "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
24 hunt as long as that field trial is not a shoot-to-retrieve field

1 trial.

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

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

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

19 "Wildlife" means wild birds, wild animals, game and fur-
20 bearing animals, fish (including minnows,) reptiles, amphibians,
21 mollusks, crustaceans and all forms of aquatic life used as fish
22 bait, whether dead or alive. The term "wildlife" does not include
23 privately owned cervid and all its subspecies that are kept
24 pursuant to article two-h, chapter nineteen of this code.

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

4 **ARTICLE 2. WILDLIFE RESOURCES.**

5 **§20-2-11. Sale of wildlife; transportation of same.**

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

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

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

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

17 **§20-2-12. Transportation of wildlife out-of-state; penalties.**

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

23 (1) A person legally entitled to hunt and fish in this state
24 may take with him or her personally, when leaving the state, any

1 wildlife that he or she has lawfully taken or killed, not
2 exceeding, during the open season, the number that any person may
3 lawfully possess.

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

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

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

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

17 (c) A person ~~violating~~ who violates ~~the provisions of~~ this
18 section by transporting or possessing with the intention of
19 transporting beyond the limits of this state deer or wild boar
20 shall be ~~deemed~~ considered to have committed a separate offense for
21 each animal so transported or possessed. This section does not
22 apply to privately-owned cervid or any of its subspecies that are
23 kept pursuant to article two-h, chapter nineteen of this code.

24 (d) A person violating ~~the provisions of~~ this section shall be

1 guilty of a misdemeanor and, upon conviction thereof, shall be
2 fined not less than \$20 nor more than \$300 and be ~~imprisoned~~
3 confined in jail not less than ten nor more than sixty days.

4 (e) This section does not apply to persons legally entitled to
5 propagate and sell wild animals, wild birds, fish, amphibians and
6 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.