

H. B. 2105

(By Delegates Anderson, Miller, Border, Kelly, R. Smith, Wagner
Williams, A. Evans, R. Phillips, Canterbury and Ireland)

[Introduced January 20, 2015; referred to the

Committee on Agriculture and Natural Resources then Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-2H-1, §19-2H-2, §19-2H-3, §19-2H-4, §19-2H-5, §19-2H-6, §19-2H-7, §19-2H-8, §19-2H-9, §19-2H-10, §19-2H-11, §19-2H-12, §19-2H-13, §19-2H-14 and §19-2H-15; to amend and reenact §19-29-2 of said code; to amend and reenact §20-1-2 of said code; and to amend and reenact §20-2-11 and §20-2-12 of said code, all relating to regulating captive cervid farming as an agricultural enterprise in this state; creating the Captive Cervid Farming Act; setting forth powers and duties of the Department of Agriculture; authorizing rule-making; setting forth duties and obligation of the Commissioner of the Department of Agriculture; establishing an application process; permitting the issuance, renewal, modification and transfer of a license certificate; requiring the inspection of facilities; permitting the transition of current facilities; providing for noncompliance with article; and establishing remedies and criminal penalties.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new

1 article, designated §19-2H-1, §19-2H-2, §19-2H-3, §19-2H-4, §19-2H-5, §19-2H-6, §19-2H-7, §19-
2 2H-8, §19-2H-9, §19-2H-10, §19-2H-11, §19-2H-12, §19-2H-13, §19-2H-14 and §19-2H-15; that
3 §19-29-2 of said code be amended and reenacted; that §20-1-2 of said code be amended and
4 reenacted; and that §20-2-11 and §20-2-12 of said code be amended and reenacted, all to read as
5 follows:

6 **CHAPTER 19. AGRICULTURE.**

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

8 **§19-2H-1. Definitions.**

9 As used in this article:

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

12 (2) "Captive cervid's" or "captive cervids" means members of the Cervidae family of animals
13 including, but not limited to, fallow deer, red deer, axis deer, moose, reindeer and caribou which are
14 domesticated animals under the control of the owner of the animal: *Provided*, That for purposes of
15 this article, elk and white-tailed deer (*Odocoileus virginianus*) and all its subspecies are not included
16 in the definition of captive cervid.

17 (3) "Captive cervid farming operation" means the raising of captive cervids which are to be
18 sold or offered for sale through commercial outlets for human consumption.

19 (4) "Commissioner" means the Commissioner of the West Virginia Department of
20 Agriculture.

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

22 (6) "Division of Natural Resources" means Division of Natural Resources established

1 pursuant to section three, article one, chapter twenty of this code.

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

4 (8) "License" means the authorization issued by the department for the operation of a captive
5 cervid farming facility.

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

12 (10) "Owner" means the person who owns or operates a licensed captive cervid farming
13 facility.

14 (11) "Person" means an individual, corporation, limited liability company, partnership,
15 association, joint venture or other legal entity.

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

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

20 The department shall regulate captive cervid farming operations in accordance with this
21 article. Subject to the transition provisions contained in section ten of this article, no person may
22 operate a captive cervid farming facility unless that person holds a license issued by the

1 commissioner pursuant to this article authorizing operation of that particular facility.

2 **§19-2H-3. Captive cervid farming rules.**

3 (a) The commissioner shall propose legislative rules in accordance with article three, chapter
4 twenty-nine-a of this code as are necessary to provide for implementation and enforcement of this
5 article. Any rule proposed by the commissioner before September 1, 2015, may be filed as an
6 emergency rule.

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

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

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

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

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

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

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

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

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

11 **§19-2H-4. Duties and obligations of the commissioner.**

12 The commissioner or his or her designees may:

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

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

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

18 (4) Enter into memorandum of understanding with the Division of Natural Resources to
19 establish inspection cooperation and coordination of the licensed captive cervid farming facilities
20 and the sharing of information retained by either the department or the Division of Natural Resources
21 relating to any captive cervid;

22 (5) Enter into interstate contracts with other states to enhance the bio-security of captive

1 cervid farming operations in this and other states;

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

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

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

10 **§19-2H-5. Application for license.**

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

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

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

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

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

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

21 (5) The proposed record-keeping system;

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

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

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

3 (c) The application shall be accompanied by the biennial license fee as follows:

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

6 (2) Class two license -- For facilities from which cervids will be harvested for commercial
7 use - \$1,500.

8 **§19-2H-6. Departmental action on applications.**

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

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

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

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

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

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

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

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

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

11 **§19-2H-7. License certificate; renewal; sale or transfer of license.**

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

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

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

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

17 and

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

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

22 (c) The sale or transfer of ownership of a captive cervid farming facility will not operate to

1 transfer the license. The department may issue a new license to the transferee, if all license
2 requirements are met and a new license fee is paid.

3 **§19-2H-8. License modification.**

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

6 **§19-2H-9. Inspection of facility by the department.**

7 (a) The department, the Division of Natural Resources, pursuant to a memorandum of
8 understanding required by section four of this article, and their authorized agents shall have access
9 at all reasonable hours to any licensed captive cervid farming facility for the purpose of conducting
10 inspections, securing samples or specimens of any cervid species and determining whether the owner
11 is in compliance with the requirements of this article. Any inspection and sampling shall be
12 conducted in a manner which will not jeopardize the health of the captive cervids.

13 **§19-2H-10. Transition to captive cervid farming licenses; statutory conflicts.**

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

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

1 (c) A licensed captive cervid farming facility is not subject to sections eleven, twelve,
2 thirteen, fourteen, forty-seven and fifty-one, article two, chapter twenty of this code or the rules
3 promulgated thereunder for its operations relating to the raising of captive cervids which are to be
4 sold or offered for sale through commercial outlets for human consumption. If a licensed captive
5 cervid farming facility has other operations relating to cervids on its facility, those cervids and the
6 facility, would be subject to any applicable laws relating to those other operations.

7 **§19-2H-11. Noncompliance with article, standards, orders or rules; suspension, revocation or**
8 **limitation of license.**

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

13 **§19-2H-12. Prohibited conduct; violation; penalty.**

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

17 (b) An owner may not intentionally or knowingly abandon a captive cervid farming facility
18 without first notifying the department in compliance with standards established under this article.

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

21 (d) Any person who violates subsection (a), (b) or (c) of this section is guilty of a
22 misdemeanor and, upon conviction thereof, shall be fined not more than \$300, confined in jail for

1 not more than ninety days, or both fined and confined, for a first offense. A second or subsequent
2 offense is a misdemeanor and, is punishable by a fine of not more than \$1,000, confinement for not
3 more than one year, or both a fine and confinement.

4 **§19-2H-13. Findings of violations; remedies.**

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

7 (1) Issue a warning; or

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

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

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

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

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

20 **§19-2H-14. Reports to Legislature.**

21 Beginning October 1, 2015, and every three months thereafter until October 1, 2017, the
22 commissioner shall make quarterly reports to the Joint Committee on Government and Finance and

1 to the Director of the Division of Natural Resources detailing the implementation and enforcement
 2 of captive cervid farming facilities in the state.

3 **§19-2H-15. Captive Cervid Farming Facility Administrative Account created.**

4 There is hereby created in the State Treasury a special revenue fund to be designated and
 5 known as the "Captive Cervid Farming Facility Administrative Account," which shall consist of
 6 revenues derived from license fees, fees for services provided by the department and civil penalties
 7 authorized by this article, to be administered by the commissioner and used for the administration
 8 and enforcement of this article. Expenditures from the fund shall be for the purposes set forth in this
 9 article and are not authorized from collections but are to be made only in accordance with
 10 appropriation by the Legislature and in accordance with the provisions of article three, chapter
 11 twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter eleven-
 12 b of this code: *Provided*, That for the fiscal year ending June 30, 2016 , expenditures are authorized
 13 from collections rather than pursuant to an explicit appropriation by the Legislature.

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

15 **§19-29-2. Definitions.**

16 As used in this article:

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

18 ~~(b)~~ (2) "Commissioner" means the commissioner of agriculture or his or her designee.

19 ~~(c)~~ (3) "Domestic purposes" means for the purposes of food production, for resale as breeding
 20 stock or for the sale of immature stock for the purposes of further feeding.

21 ~~(d)~~ (4) "Nontraditional agriculture" means the production of animals domesticated from wild
 22 stock, either native or nonnative, and are being confined, bred, and/or fed for domestic purposes,

1 except that elk and white-tailed deer (*Odocoileus virginianus*) and all its subspecies shall not be
2 included; aquaculture; or other agricultural products as defined in this article.

3 **CHAPTER 20. NATURAL RESOURCES.**

4 **ARTICLE 1. ORGANIZATION AND ADMINISTRATION.**

5 **§20-1-2. Definitions.**

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

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

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

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

12 (4) "Big game" means elk, deer, black bears, wild boars and wild turkeys.

13 (5) "Bona fide resident, tenant or lessee" means a person who permanently resides on the
14 land.

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

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

19 (8) "Commission" means the Natural Resources Commission.

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

22 (10) "Director" means the Director of the Division of Natural Resources.

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

3 (12) "Fur-bearing animals" include: (A) The mink; (B) the weasel; (C) the muskrat; (D) the
4 beaver; (E) the opossum; (F) the skunk and civet cat, commonly called polecat; (G) the otter; (H) the
5 red fox; (I) the gray fox; (J) the wildcat, bobcat or bay lynx; (K) the raccoon; and (L) the fisher.

6 (13) "Game" means game animals, game birds and game fish as herein defined.

7 (14) "Game animals" include: (A) The elk; (B) the deer; (C) the cottontail rabbits and hares;
8 (D) the fox squirrels, commonly called red squirrels, and gray squirrels and all their color phases -
9 red, gray, black or albino; (E) the raccoon; (F) the black bear; and (G) the wild boar. The term "game
10 animals" does not include privately owned cervid and all its subspecies that are kept pursuant to
11 article two-h, chapter nineteen of this code.

12 (15) "Game birds" include: (A) The anatidae, commonly known as swan, geese, brants and
13 river and sea ducks; (B) the rallidae, commonly known as rails, sora, coots, mudhens and gallinule;
14 (C) the limicolae, commonly known as shorebirds, plover, snipe, woodcock, sandpipers, yellow legs
15 and curlews; (D) the galliformes, commonly known as wild turkey, grouse, pheasants, quails and
16 partridges (both native and foreign species); (E) the columbidae, commonly known as doves; (F) the
17 icteridae, commonly known as blackbirds, redwings and grackle; and (G) the corvidae, commonly
18 known as crows.

19 (16) "Game fish" include: (A) Brook trout; (B) brown trout; (C) rainbow trout; (D) golden
20 rainbow trout; (E) largemouth bass; (F) smallmouth bass; (G) spotted bass; (H) striped bass; (I) chain
21 pickerel; (J) muskellunge; (K) walleye; (L) northern pike; (M) rock bass; (N) white bass; (O) white
22 crappie; (P) black crappie; (Q) all sunfish species; (R) channel catfish; (S) flathead catfish; (T) blue

1 catfish, (U) sauger; and (V) all game fish hybrids.

2 (17) "Hunt" means to pursue, chase, catch or take any wild birds or wild animals: *Provided*,
3 That the definition of "hunt" does not include an officially sanctioned and properly licensed field
4 trial, water race or wild hunt as long as that field trial is not a shoot-to-retrieve field trial.

5 (18) "Lands" means land, waters and all other appurtenances connected therewith.

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

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

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

18 (22) "Person", except as otherwise defined elsewhere in this chapter, means the plural
19 "persons" and shall include individuals, partnerships, corporations or other legal entities.

20 (23) "Preserve" means all ~~duy~~ licensed private game farmlands, or private plants, ponds or
21 areas, where hunting or fishing is permitted under special licenses or seasons other than the regular
22 public hunting or fishing seasons. The term "preserve" does not include privately-owned lands that

1 are kept pursuant to article two-h, chapter nineteen of this code for the raising of captive cervids
2 which are to be sold or offered for sale through commercial outlets for human consumption.

3 (24) "Protected birds" means all wild birds not included within the definition of "game birds"
4 and "unprotected birds".

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

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

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

18 (28) "Take" means to hunt, shoot, pursue, lure, kill, destroy, catch, capture, keep in captivity,
19 gig, spear, trap, ensnare, wound or injure any wildlife, or attempt to do so: *Provided*, That the
20 definition of "take" does not include an officially sanctioned and properly licensed field trial, water
21 race or wild hunt as long as that field trial is not a shoot-to-retrieve field trial.

22 (29) "Unprotected birds" shall include: (a) The English sparrow; (b) the European starling;

1 and (c) the cowbird.

2 (30) "Wild animals" means all mammals native to the State of West Virginia occurring either
3 in a natural state or in captivity, except house mice or rats. The term "wild animals" does not include
4 privately-owned cervid and all its subspecies that are kept pursuant to article two-h, chapter nineteen
5 of this code which are to be sold or offered for sale through commercial outlets for human
6 consumption.

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

13 (32) "Wildlife" means wild birds, wild animals, game and fur-bearing animals, fish
14 (including minnows,) reptiles, amphibians, mollusks, crustaceans and all forms of aquatic life used
15 as fish bait, whether dead or alive. The term "wildlife" does not include privately owned cervid and
16 all its subspecies that are kept pursuant to article two-h, chapter nineteen of this code which are to
17 be sold or offered for sale through commercial outlets for human consumption.

18 (33) "Wildlife refuge" means any land set aside by action of the director as an inviolate
19 refuge or sanctuary for the protection of designated forms of wildlife.

20 **ARTICLE 2. WILDLIFE RESOURCES.**

21 **§20-2-11. Sale of wildlife; transportation of same.**

22 No (a) A person, except those legally licensed to operate private game preserves for the

1 purpose of propagating game for commercial purposes and those legally licensed to propagate or sell
 2 fish, amphibians and other forms of aquatic life, ~~shall~~ may not purchase or offer to purchase, sell or
 3 offer to sell, expose for sale, or have in his or her possession for the purpose of sale any wildlife, or
 4 part thereof, which has been designated as game animals, fur-bearing animals, game birds, game fish
 5 or amphibians, or any of the song or insectivorous birds of the state, or any other species of wildlife
 6 which the director may designate, ~~Provided, That~~ except for privately owned cervid and all its
 7 subspecies that are kept pursuant to article two-h, chapter nineteen of this code which are to be sold
 8 or offered for sale through commercial outlets for human consumption. ~~pelts~~ Pelts of game or fur-
 9 bearing animals taken during the legal season may be sold and live red and gray foxes and raccoon
 10 taken by legal methods during legal and established trapping seasons may be sold within the state.
 11 ~~Provided, however, That.~~ The hide, head, antlers and feet of a legally killed deer and the hide, head
 12 and skull of a legally killed black bear may be sold.

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

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

21 (d) The director ~~shall have authority to promulgate rules~~ may propose rules for promulgation
 22 in accordance with article three, chapter twenty-nine-a of this code, dealing with the sale of wildlife

1 and the skins thereof.

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

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

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

9 (2) Licensed resident hunters and trappers and resident and nonresident fur dealers may
10 transport beyond the limits of the 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 a legally killed deer and the
13 hide, head, skull, organs and feet of a legally killed black bear beyond the limits of the state.

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

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

18 (c) A person violating the provisions of this section by transporting or possessing with the
19 intention of transporting beyond the limits of this state deer or wild boar shall be ~~deemed~~ considered
20 to have committed a separate offense for each animal so transported or possessed.

21 (d) A person violating the provisions of this section shall be guilty of a misdemeanor and,
22 upon conviction thereof, shall be fined not less than \$20 nor more than \$300 and ~~be imprisoned~~

1 confined in jail not less than ten nor more than sixty days.

2 (e) This section does not apply to:

3 (1) Persons legally entitled to propagate and sell wild animals, wild birds, fish, amphibians
4 and other forms of aquatic life beyond the limits of the state; and

5 (2) Privately-owned cervid or any of its subspecies that are kept pursuant to article two-h,
6 chapter nineteen of this code which are to be sold or offered for sale through commercial outlets for
7 human consumption.

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

Article 2H is new; therefore, it has been completely underscored.

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