

By: Williams, et al.  
(Guillen)

S.B. No. 820

Substitute the following for S.B. No. 820:

By: Larson

C.S.S.B. No. 820

A BILL TO BE ENTITLED

AN ACT

relating to the management, breeding, and destruction of deer and  
to procedures regarding certain deer permits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 12.501(b), Parks and Wildlife Code, is  
amended to read as follows:

(b) The director may suspend or revoke an original or  
renewal permit or license issued under this code if it is found,  
after notice and hearing, that:

(1) the permittee or licensee has been finally  
convicted of a violation of this code or proclamation or regulation  
adopted under this code relating to the permit or license to be  
suspended or revoked;

(2) the permittee or licensee violated a provision of  
this code or proclamation or regulation adopted under this code  
relating to the permit or license to be suspended or revoked;

(3) the permittee or licensee made a false or  
misleading statement in connection with the permittee's or  
licensee's ~~his~~ original or renewal application, either in the  
formal application itself or in any other written instrument  
relating to the application submitted to the commission or its  
officers or employees;

(4) the permittee or licensee is indebted to the state  
for taxes, fees, or payment of penalties imposed by this code or by

a commission rule relating to a permit or license to be suspended or  
revoked; or

(5) the permittee or licensee is liable to the state  
under Section 12.301.

SECTION 2. Section 12.506, Parks and Wildlife Code, is  
amended by adding Subsection (c) to read as follows:

(c) This section does not apply to the appeal of a decision  
by the department refusing to issue or renew a permit to which  
Subchapter G applies.

SECTION 3. Chapter 12, Parks and Wildlife Code, is amended  
by adding Subchapter G to read as follows:

SUBCHAPTER G. REFUSAL TO ISSUE OR RENEW CERTAIN PERMITS RELATING TO  
THE CONTROL, BREEDING, OR MANAGEMENT OF DEER; APPEAL OF CERTAIN  
DECISIONS

Sec. 12.601. APPLICABILITY OF SUBCHAPTER. This subchapter  
applies only to the following permits:

(1) a trap, transport, and transplant permit under  
Section 43.061 or 43.0611;

(2) a trap, transport, and process permit under  
Section 43.0612;

(3) a deer breeder's permit under Subchapter L,  
Chapter 43;

(4) a white-tailed deer management permit under  
Subchapter R, Chapter 43; and

(5) a mule deer management permit under Subchapter  
R-1, Chapter 43.

Sec. 12.602. DEFINITIONS. In this subchapter:

1           (1) "Applicant" means a person who has applied for a  
2 new or renewal permit.

3           (2) "Final conviction" means a final judgment of  
4 guilt, the granting of deferred adjudication or pretrial diversion,  
5 or the entering of a plea of guilty or nolo contendere.

6           Sec. 12.603. GENERAL CIRCUMSTANCES FOR REFUSAL TO ISSUE OR  
7 RENEW PERMIT. The department may refuse to issue or renew a permit  
8 if the applicant fails to submit in a timely manner the following:

9           (1) a completed application on a form supplied by the  
10 department and all application materials required by the  
11 department;

12           (2) the required permit fee;

13           (3) accurate reports as applicable; and

14           (4) any additional information that the department  
15 determines is necessary to process the application.

16           Sec. 12.604. CONSIDERATIONS FOR ISSUANCE OR RENEWAL OF  
17 PERMIT; APPLICANT WITH PRIOR PENALTIES OR CONVICTIONS. (a) This  
18 section applies only to a determination of whether to issue a permit  
19 to or renew a permit for an applicant who has a final conviction or  
20 has been assessed an administrative penalty for a violation of:

21           (1) Subchapter C, E, L, R, or R-1, Chapter 43;

22           (2) a provision of this code not described by  
23 Subdivision (1) that is punishable as a Class A or B Parks and  
24 Wildlife Code misdemeanor, a Parks and Wildlife Code state jail  
25 felony, or a Parks and Wildlife Code felony;

26           (3) Section 63.002; or

27           (4) the Lacey Act (16 U.S.C. Sections 3371-3378).

1        (b) In determining whether to issue a permit to or renew a  
2 permit for an applicant who has a final conviction or has been  
3 assessed an administrative penalty, the department shall consider:

4            (1) the number of final convictions or administrative  
5 penalties;

6            (2) the seriousness of the conduct on which the final  
7 conviction or administrative penalty is based;

8            (3) the existence, number, and seriousness of offenses  
9 or violations other than offenses or violations that resulted in a  
10 final conviction or administrative penalty described by Subsection  
11 (a);

12           (4) the length of time between the most recent final  
13 conviction or administrative penalty and the permit application;

14           (5) whether the final conviction, administrative  
15 penalty, or other offense or violation was the result of negligence  
16 or intentional conduct;

17           (6) whether the final conviction or administrative  
18 penalty resulted from conduct committed or omitted by the  
19 applicant, an agent of the applicant, or both;

20           (7) the accuracy of the permit history information  
21 provided by the applicant;

22           (8) for a renewal, whether the applicant agreed to any  
23 special provisions recommended by the department as conditions to  
24 the expiring permit; and

25           (9) other mitigating factors.

26        Sec. 12.605. PROCEDURE FOR REFUSAL TO ISSUE OR RENEW  
27 PERMIT. (a) Not later than the 10th day after the date a decision

1 to refuse to issue or renew a permit has been made, the department  
2 shall provide to the applicant a written statement of the reasons  
3 for the decision.

4 (b) The commission by rule shall adopt procedures  
5 consistent with this subchapter for the department's review of a  
6 refusal to issue or renew a permit.

7 Sec. 12.606. REVIEW OF REFUSAL TO ISSUE OR RENEW PERMIT. In  
8 conducting a review of a decision by the department to refuse to  
9 issue or renew a permit, the department shall consider:

10 (1) any applicable factors listed under Section  
11 12.604;

12 (2) the applicant's efforts toward rehabilitation;

13 (3) whether there is a substantial likelihood that the  
14 applicant would repeat the conduct on which the refusal is based;

15 (4) whether the conduct on which the refusal is based  
16 involved a threat to public safety; and

17 (5) other mitigating factors.

18 Sec. 12.607. APPEAL OF DEPARTMENT DECISION REFUSING TO  
19 ISSUE OR RENEW PERMIT. (a) Venue to appeal a decision of the  
20 department refusing to issue or renew a permit is a district court  
21 in Travis County.

22 (b) The appeal shall be by trial de novo.

23 SECTION 4. Section 43.352, Parks and Wildlife Code, is  
24 amended by amending Subsection (b) and adding Subsections (c) and  
25 (d) to read as follows:

26 (b) At the option of the person applying for the issuance or  
27 renewal of a permit under this section, the [The] department may

1 issue a permit [~~under this section~~] that is valid for [~~longer than~~]  
2 one year, three years, or five years.

3 (c) A three-year or five-year permit is available only to a  
4 person who:

5 (1) has held a deer breeder's permit for the three  
6 consecutive permit years immediately preceding the date of the  
7 application for a three-year or five-year permit;

8 (2) agrees to submit the annual reports required under  
9 this subchapter electronically; and

10 (3) meets any other criteria established by rule of  
11 the commission.

12 (d) The commission may adopt rules allowing the department  
13 to revoke a three-year or five-year permit before the date  
14 specified for expiration of the permit if the permit holder fails to  
15 submit the annual reports electronically as required.

16 SECTION 5. Subchapter L, Chapter 43, Parks and Wildlife  
17 Code, is amended by adding Section 43.3591 to read as follows:

18 Sec. 43.3591. GENETIC TESTING. (a) In this section:

19 (1) "DNA" means deoxyribonucleic acid.

20 (2) "Genetic test" means a laboratory analysis of a  
21 deer's genes, gene products, or chromosomes that:

22 (A) analyzes the deer's DNA, RNA, proteins, or  
23 chromosomes; and

24 (B) is performed to determine genetically the  
25 deer's ancestral lineage or descendants.

26 (3) "RNA" means ribonucleic acid.

27 (b) After an inspection, the department shall notify a deer

1 breeder in writing when the department has reason to believe the  
2 deer breeder possesses deer that may pose a disease risk to other  
3 deer. The notice must include an explanation of the rationale used  
4 to establish the disease risk.

5 (c) If genetic testing is timely conducted, the department  
6 must postpone any actions that may be affected by the test results  
7 until the test results are available.

8 (d) The results of genetic testing may not be used as  
9 evidence to establish a defense against a fine imposed on a deer  
10 breeder found guilty of failure to keep records of all deer in a  
11 deer breeder facility as required by this subchapter.

12 (e) The commission shall adopt rules as needed to implement  
13 this section.

14 SECTION 6. Chapter 43, Parks and Wildlife Code, is amended  
15 by adding Subchapter X to read as follows:

16 SUBCHAPTER X. DEER DISPOSITION PROTOCOL

17 Sec. 43.951. APPLICABILITY. This subchapter applies only  
18 to the disposition of the following deer:

19 (1) deer held at a facility covered by a permit issued  
20 under Subchapter L;

21 (2) deer on acreage covered by a permit issued under  
22 Subchapter R; and

23 (3) deer on acreage covered by a permit issued under  
24 Subchapter R-1.

25 Sec. 43.952. DEFINITIONS. In this subchapter:

26 (1) "Animal health commission" means the Texas Animal  
27 Health Commission.

1           (2) "Permit" means a permit issued under Subchapter L,  
2 R, or R-1.

3           (3) "Permit holder" means a person to whom a permit is  
4 issued under Subchapter L, R, or R-1.

5           Sec. 43.953. DESTRUCTION OF DEER. (a) Before any deer may  
6 be destroyed under this subchapter:

7           (1) an agent of the animal health commission may  
8 conduct an epidemiological assessment:

9           (A) if the assessment can be conducted in a  
10 timely manner; and

11           (B) contingent on the availability of funding;  
12 and

13           (2) the department must consider the results of an  
14 assessment, if conducted, under Subdivision (1).

15           (b) To control or prevent the spread of disease, deer to  
16 which this subchapter applies may be destroyed only if the  
17 department determines that the deer pose a threat to the health of  
18 other deer or other species, including humans.

19           (c) The department shall carry out an order to destroy deer  
20 after notice has been provided to the permit holder under Section  
21 43.954.

22           Sec. 43.954. NOTICE OF DEER DESTRUCTION. (a) The  
23 department must provide written notice of an order to destroy deer  
24 to a permit holder before the department may destroy any of the deer  
25 covered by the permit holder's permit.

26           (b) A notice provided under this section must be sent by  
27 certified mail to the last known address of the permit holder and



1 must contain:

2 (1) the date of destruction, which may not be sooner  
3 than the 10th day after the date of the notice;

4 (2) an explanation of any access restrictions imposed  
5 on the facility or acreage covered by the permit during the  
6 destruction of the deer; and

7 (3) an explanation of the reasons for the destruction,  
8 including the results of any epidemiological assessment conducted  
9 under Section 43.953(a) applicable to the deer that are the subject  
10 of the notice.

11 (c) The permit holder may waive the notice requirements of  
12 this section.

13 Sec. 43.955. COST RECOVERY. The applicable permit holder  
14 shall pay all costs associated with:

15 (1) an epidemiological assessment conducted under  
16 this subchapter to the animal health commission; and

17 (2) the destruction of deer under this subchapter to  
18 the department.

19 SECTION 7. (a) Except as provided by Subsection (b) of this  
20 section, Subchapter G, Chapter 12, Parks and Wildlife Code, as  
21 added by this Act, applies only to an application for the issuance  
22 or renewal of a permit submitted to the Parks and Wildlife  
23 Department on or after the effective date of this Act. An  
24 application submitted before the effective date of this Act is  
25 governed by the law as it existed immediately before the effective  
26 date of this Act, and that law is continued in effect for that  
27 purpose.

1           (b) Section 12.607, Parks and Wildlife Code, as added by  
2 this Act, applies only to an appeal of a decision of the Parks and  
3 Wildlife Department refusing to issue or renew a permit that is  
4 filed on or after the effective date of this Act. An appeal filed  
5 before the effective date of this Act is governed by the law in  
6 effect on the date the appeal was filed, and that law is continued  
7 in effect for that purpose.

8           SECTION 8. Section 43.3591(d), Parks and Wildlife Code, as  
9 added by this Act, applies only to an offense committed on or after  
10 the effective date of this Act. An offense committed before the  
11 effective date of this Act is governed by the law in effect on the  
12 date the offense was committed, and the former law is continued in  
13 effect for that purpose. For purposes of this section, an offense  
14 was committed before the effective date of this Act if any element  
15 of the offense occurred before that date.

16           SECTION 9. Not later than September 1, 2014, the Parks and  
17 Wildlife Commission shall adopt rules as needed to implement  
18 Subchapter G, Chapter 12, Parks and Wildlife Code, as added by this  
19 Act.

20           SECTION 10. This Act takes effect September 1, 2013.