

SUBJECT: Permitting private landowners to manage wild white-tailed deer

COMMITTEE: State Recreational Resources — committee substitute recommended

VOTE: 6 ayes — Kuempel, Hightower, Horn, Longoria, Merritt, Palmer
1 nay — King
2 absent — McCall, Hilderbran

WITNESSES: For — Terry Sid
Against — Ellis Gilleland, Texas Animals; Mark Matthews
On — Jerry Cooke and David Sinclair, Texas Parks and Wildlife Department

BACKGROUND : All wild white-tailed deer inside the borders of the state are the property of the people of Texas and are managed by the Texas Parks and Wildlife Department (TPWD). Unless specifically authorized by the state, it is illegal to confine wild white-tailed deer in a pen. Only persons with scientific deer breeder permits from TPWD are authorized to sell white-tailed deer in the state. Scientific breeders can only purchase deer from another licensed breeder or from a legal out-of-state breeder.

DIGEST: CSHB 3061 would allow the Texas Parks and Wildlife Department (TPWD) to issue permits for the management of wild white-tailed deer on private property. The deer would have to be on acreage enclosed by a fence capable both of retaining and preventing entry of white-tailed deer under normal circumstances. The bill would not restrict or prohibit high fences on acreage not covered by a management plan.

Deer would be managed by permit holders on behalf of the state but would remain the property of all Texans. White-tailed deer management permits would be valid for at least a year, and permit issuance or renewal fees would be capped at \$1,000.

Violating a condition of a permit, rule or statute concerning deer management, or failing to maintain deer management records required by TPWD, would be a Class C Parks and Wildlife misdemeanor, punishable by a fine of \$25 to \$500. The killing of a deer temporarily held in a breeding enclosure by a deer management permit holder would be a Class A Parks and Wildlife misdemeanor, punishable by jail time of up to one year or a fine of \$500 to \$2000 or both.

A deer management permit holder would be required to submit a deer management plan annually to TPWD for approval or disapproval. To be approved, a plan would have to be consistent with TPWD regulatory responsibilities under the Uniform Wildlife Regulatory Act, which requires the department to hold public hearings before proclamations are made concerning the taking or possession of wildlife resources.

A deer management plan would establish specific management practices to be imposed on deer on a permit holder's acreage, which could include:

- Temporary detention of wild deer in an enclosure for propagation with other wild deer and release of those deer on the permit holder's acreage. Deer could not be killed while in an enclosure designed for temporary detention.
- The number of wild deer that could be killed during open seasons, which would be established by the Parks and Wildlife Commission and specified in the deer management plan.
- A special bag limit for wild deer killed during a special season, established by the commission for the the permit.

Deer management permits would be subject to conditions established by the Parks and Wildlife Commission concerning the number of deer on the property that could be killed by one person, the number and type of deer that could be killed or taken under the permit, and the number of deer and length of time that they could be temporarily detained in an enclosure.

Permit holders would be required to maintain accurate deer management records showing the number of deer taken during open and special seasons,

the number detained and released during a permit period, and other information required by the department. TPWD employees could at any time and without a warrant inspect deer management records and the acreage for which the permit is issued to determine if permit holders are complying with their management plans.

Current state laws and regulations concerning white-tailed deer would still apply to deer covered by a management plan, as long they did not conflict with the provisions of CSHB 3061.

The bill would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS
SAY:**

CSHB 3061 would allow landowners who have a superior wild white-tailed buck on their land to encourage it to breed with the does on their property. Under current law, landowners who want to improve the bloodlines of wild deer on their property are forced to buy domestic and out-of-state bucks from scientific deer breeders even if they have a better quality wild buck on their own land. Current law is written in such a way that it unfairly perpetuates this monopoly for no good reason, and CSHB 3061 would remedy the situation. Releasing a buck bought from a breeder will not guarantee trophy animals since an introduced buck may not be able to compete with mature wild bucks in the area.

CSHB 3061 would allow the people of Texas to profit from better management of state deer. Management plans, approved by state biologists, would not only lead to better stewardship of the land for deer but improve habitat for songbirds and other wild animals as well. There would be no privatization of state resources under the bill, and permit holders could not benefit from state deer any more than those who currently profit from hunting leases. Scientific deer breeders would also benefit from the bill since they would have a bigger market in which to sell their bucks. Deer management permit holders could not compete with deer breeders since they could not buy or sell deer.

TPWD would have to approve all management plans, and state biologists are not going to allow year round hunting or other practices that would weaken or lead to injury of state animals. State biologists would not allow

the penning of state deer if it resulted in a loss of those deer. State officials would insist that facilities were adequate to protect the animals. With a few precautions like opaque fencing, for example, it is easy to keep wild deer healthy in captivity. Permit holders would probably only request extended seasons to be able to cull inferior bucks before breeding season. In some areas, by the time hunting season opens the inferior bucks have already bred the does.

Private landowners already engage in informal management of the wild deer on their private property. CSHB 3061 would merely formalize this process and ensure that their management plan was biologically sound. Current law, for example, already allows TPWD to waive bag limits and extend hunting seasons in certain circumstances. The department can also authorize the culling of areas overpopulated by deer, the culling of antler-less and spike deer, and the management of deer through managed land deer permits. CSHB 3061 would not expand the powers of landowners to manage their deer, but merely allow them to do so in an organized manner, rather than in a piecemeal fashion through myriad temporary permits.

Landowners in rural areas can already build any kind of high fences they want on their private property, including fences to keep deer out, and there is no evidence that CSHB 3061 would increase fence building. The bill would merely permit landowners, many of whom already have high fences and informally manage the wild deer on their property, to engage in formal, TPWD-approved management plans.

The bill would not be difficult for TPWD to enforce. In fact, it would be easy for TPWD to regulate deer management permit holders because their records and land could be inspected at any time without a warrant. Under current law, TPWD employees do not enter private land without the owner's permission except for law enforcement purposes or if they have probable cause to do so. Under CSHB 3061, deer management permit holders could be inspected at any time without a warrant as a condition of the permit.

Canned hunts would not be encouraged at all by the bill. The penalties for canned hunts by a deer management permit holder would be very serious and could include up to a year of jail time, while the penalty for scientific breeders who engaged in canned hunts would only be a fine of between \$25

and \$500. Deer management permit holders would also have to keep accurate records of their actions, which could be inspected at any time by the department.

OPPONENTS
SAY:

CSHB 3061 would effectively privatize the ownership of white-tailed deer because landowners with high fences could, under rules to be promulgated by TPWD, allow out-of-season hunting on their land if they could show that it was necessary for their management plan. Since landowners could institute a breeding program, decide which animals could be shot, and control the access to their property, they would in effect be making money off state deer. There is no reason why only these few permit holders should be able to make a profit from a resource that belongs to all Texans equally. Texas already has a long white-tailed deer season, from November to January in most areas, which is long enough to accomplish any reasonable management plan. Allowing a few people to take bucks all year round would not be fair to other hunters who wait patiently for open season. The TPWD, not private landowners, should manage state deer for all Texans.

Landowners should not be allowed to enclose wild deer, which are the property of the people of Texas, in breeding pens. Wild deer do not do well in captivity, especially when there is no biologist on site, and often injure themselves, starve or sicken when they are enclosed in small areas. Rounding up wild deer with helicopters and other means can also result in injuries and death. Some studies have shown a 25-50 percent death loss during capture and captivity of wild deer. Landowners would have little incentive to treat deer carefully because they could always get more from the wild. Scientific deer breeders, on the other hand, are extremely careful with the deer in which they have a significant investment.

The bill would split the hunting community in the state and would bitterly divide the deer breeding community. CSHB 3061 would also allow some landowners to use a state resource to compete against the private sector deer breeders who must pay for their animals.

The bill would encourage more Texas landowners to surround their property with high, deer-proof fences, a disturbing trend in many rural areas. High fences not only interfere with the Texas tradition of "fair chase," which gives wild game a chance to escape from hunters, but also lock wild deer

outside of fences from resources that they may need to access in order to survive in times of drought. If landowners truly want to improve the quality and quantity of Texas deer, they should work on improving deer habitat and leave their land unfenced.

There is no sound biological basis for allowing landowners, most of whom know very little about genetics, to engage in breeding programs that could actually weaken, rather than strengthen, Texas' wild deer populations. Many pure-bred dog species, for example have become so inbred that they are riddled with diseases and other problems. Breeding deer only to produce large antler volume would produce inbred deer that cannot resist diseases or have other weaknesses. Under this bill, landowners would be encouraged to exterminate any low quality buck on their land and breed every doe to the same big antlered buck. This would be asking for trouble because it is genetic diversity that makes for strong, disease and drought-resistant deer.

The bill would lead to illegal canned hunts in the state since it would be hard for game wardens to keep track of wild un-tagged deer held by management permit holders. Unscrupulous landowners would be tempted to allow hunters willing to pay top dollar to kill a big buck in their breeding enclosure. This is not a problem with scientific breeders, who pay large amounts for their animals and can make more money from them as breeding stock than as hunter trophies.

NOTES:

The committee substitute deleted a provision that would have required Texas Animal Health Commission rules relating to the testing of imported deer for bovine tuberculosis to be no stricter than U.S. Department of Agriculture requirements. The committee substitute also added a number of restrictive conditions concerning deer management permits, including requiring permit holders to maintain records and establishing offenses and penalties for violation of deer management rules and statutes.

The companion bill, SB 1458 by Armbrister, was reported favorably by the Senate Committee on Natural Resources on March 19.

A related bill, HB 2541 by Kuempel, also on today's calendar, would amend the state statutes regulating scientific breeders of white-tailed deer and mule deer in Texas.