SENATE BILL 1568
By Ketron

HOUSE BILL 1112

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 44; Section 70-4-403 and Section 70-4-413, to enact the “White-tailed Deer Breeding and Farming Act”.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 44, is amended by adding the following language as a new chapter 21:

44-21-101. This chapter shall be known and may be cited as the “White-tailed Deer Breeding and Farming Act”.

44-21-102. As used in this chapter:

(1) "Agency" means the Tennessee wildlife resources agency;

(2) "Commercial" means to manage on a business basis or engage in any transaction or exchange for consideration including barter, the offer to sell, or possession with the intent to sell for profit or monetary gain;

(3) “Commissioner” means the commissioner of agriculture;

(4) "Department" means the Tennessee department of agriculture;

(5) "Farmed white-tailed deer" means all white-tailed deer specified in rules by the department with written concurrence of the agency that are raised or maintained within a perimeter fence or confined space for the production of meat and other agricultural products, sport, exhibition, personal use, or any other purpose;

(6) "Farmed white-tailed deer facility" means any private or public premises that contain one (1) or more privately owned farmed white-tailed deer, bred either naturally with other farmed white-tailed deer or by artificial means and

such farmed white-tailed deer are not removed from the premises through hunting;

(7) "Native white-tailed deer" and “native deer” means any and all members of the species Odocoileus virginianus indigenous to Tennessee occurring in the wild and living in the state of nature;

(8) "Noncommercial" means to manage for personal enjoyment and personal use;

(9) "Operator" means the person who performs the daily farmed white-tailed deer management functions;

(10) "Owner" means a person with legal title to a farmed white-tailed deer or herd of farmed white-tailed deer;

(11) "Premises" means the ground, area, buildings, water source and equipment commonly shared by a herd of farmed white-tailed deer;

(12) "Proof of ownership" means an inspection certificate of sale from a licensed public livestock market showing individual identification, a bill of sale, a certificate of sale, court orders, a statement that the white-tailed deer was born from animals owned by the seller, or any other document the department deems acceptable; and

(13) "White-tailed deer" and "deer" mean any member of the species Odocoileus virginianus either occurring in the wild and living in the state of nature or bred and farmed under this chapter.

44-21-103. Authorized agents of the department shall have the authority to enter any premises or mode of transportation for the purpose of implementing or enforcing this chapter or any rules promulgated pursuant to this chapter.

44-21-104. Authorized agents of the agency shall have the authority to enter and inspect any premises for the purpose of enforcing relevant provisions of title 70.

44-21-105.

(a) This chapter shall not apply to the regulation of private wildlife preserves permitted pursuant to § 70-4-413; provided, however, it shall be lawful for private wildlife preserves to purchase farmed white-tailed deer pursuant to this chapter and to hunt farmed white-tailed deer in such private wildlife preserves. Farmed white-tailed deer shall be an approved species for such hunting under the same regulations as other cervidae species currently approved for hunting at the private wildlife preserves. In addition, a licensed farmed white-tailed deer facility may be permitted contiguous to any preserve permitted pursuant to § 70-4-413.

(b) Notwithstanding any other law, rule or regulation to the contrary, any moratorium in place prior to the date this act takes effect for permitting private wildlife preserves pursuant to § 70-4-413 is hereby declared null and void.

44-21-106. The department is authorized to promulgate rules and regulations necessary to implement this chapter, including the establishment of fees. Fees shall be set at a level in a necessary amount for the enforcement of this act equal to any additional costs not available within the current budget of the department.

44-21-107. In addition, the department shall have the authority to:

(1) Issue, renew, deny, modify, suspend, cancel and revoke any license, permit, certificate, registration, identification or order issued pursuant to this chapter;

(2) Issue entry or import permits to any person transporting farmed white-tailed deer into this state;

(3) Investigate complaints and violations of this chapter; and

(4) Issue quarantines, initiate control measures, confiscate, and destroy farmed white-tailed deer that present a danger to native deer, other animals, or to the public safety or welfare.

44-21-108. No person shall breed, possess, or raise farmed white-tailed deer for commercial or noncommercial purposes without first obtaining a farmed white-tailed deer facility license from the department.

44-21-109. The department may issue a farmed white-tailed deer facility license to any person that lawfully obtains deer, acts in good faith, and adheres to the laws and rules of this state, including this chapter. Nothing in this section shall prevent the department from issuing a license to persons the department deems to have obtained deer from a legal source, acted in good faith, and failed to recognize a license was required.

44-21-110. All persons issued a farmed white-tailed deer facility license shall abide by all provisions of this chapter. An initial application for a farmed white-tailed deer facility license shall contain the following:

(1) Name, address, and telephone number of the owner;

(2) Name, address, and telephone number of the operator, if different from the owner;

(3) Name, address, and telephone number of the primary contact;

(4) Farm name, facility address, and facility telephone number;

(5) Name, address and telephone number of the location where records are kept;

(6) Specific legal description of the facility;

(7) A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;

(8) Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in this state or any other jurisdiction;

(9) Whether the property where the farmed white-tailed deer facility is located is owned or leased;

(10) An initial inventory of the farmed white-tailed deer, including their ages and a minimum of one (1) form of official identification approved by the department;

(11) Method of carcass disposal for the facility;

(12) Driving directions from the nearest town;

(13) A list of each name the farmed white-tailed deer facility operates under; and

(14) Signature under oath:

"I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

44-21-111. Using the information from the application and from the state's files, the department shall determine:

(1) The accuracy of all materials in the application; and

(2) Whether the applicant can reasonably be expected to comply with all legal requirements of the license.

44-21-112. The department shall not issue a farmed white-tailed deer facility license if the facility is not inspected by the department.

44-21-113. Each license issued by the department shall expire on June 30 of each calendar year, and the renewal application shall be submitted no later than February 15 of each calendar year. Any renewal received or postmarked after the renewal date shall be subject to a ten percent (10%) penalty in addition to the renewal fee.

44-21-114.

(a) In addition to the renewal application containing all information from the initial license application other than the information requirements of § 44-21-110(6)-(8), the licensee shall submit a signed, complete, accurate and legible form with the following information:

(1) The annual report containing all inventory information for all farmed white-tailed deer one (1) year of age or older, unless the facility is a chronic wasting disease monitored herd with a current chronic wasting disease inventory on file with the department; and

(2) Any changes to the facility or change in status of convictions as required by § 44-21-110(8) since the last renewal or original license application, including, but not limited to:

(A) Changes in contact information; and

(B) Changes in perimeter fences, including attaching an updated map indicating any expansion, change in facility perimeter, or any additional fencing.

(b) Failure to renew a license by the expiration date shall result in the facility being quarantined until an administrative hearing can be conducted. The failure may result in revocation of the license, loss of the facility number, closure of the facility, and removal of the farmed white-tailed deer from the premises.

44-21-115. License ownership transfer may be approved upon the new owner or operator submitting to the department a transfer application, and attaching any change of conditions resulting from the transfer of ownership and operation. The department shall review the information, and within thirty (30) days, issue approval or denial of the transfer. Transfer of a license shall be denied only if the new owner or operator cannot comply with the requirements of transfer. If a transfer is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant for transfer.

44-21-116. All records shall be kept by the owner or operator for a maximum of three (3) years, and the following records shall be maintained at the facility:

(1) Records of farmed white-tailed deer sold, killed, given away, transported, or shipped from the facility;

(2) Proof that the farmed white-tailed deer are from a legal source and records kept and animals marked to identify individual animals;

(3) The chronic wasting disease inventory or an inventory of farmed white-tailed deer one (1) year of age or older containing the following information:

(A) Name, address of the farmed white-tailed deer facility, the owner, and the operator;

(B) A listing of any and all identification numbers assigned to the farmed white-tailed deer by the owner or operator or any other official entity using either any official identification approved by the department or

the United States department of agriculture alphanumeric test tag number or official Canadian alphanumeric test tag number, if applicable;

(C) Age;

(D) Sex;

(E) Date of purchase;

(F) Date of death or date of change of ownership;

(G) Any farmed white-tailed deer born at the facility that are one (1) year of age or older shall be shown on the inventory record, or upon sale of transfer of ownership or upon leaving the facility, whichever comes first; and

(H) Date the inventory was completed; and

(4) Herd and individual animal health documents, including, but not limited to the certificate of veterinary inspection and test results.

44-21-117. Importation of any farmed white-tailed deer originating in any county in any state of the United States or Canadian province where chronic wasting disease exists in free-ranging native herds is prohibited. All other farmed white-tailed deer imports shall only be from a source herd that is in a chronic wasting disease surveillance and certification program for a minimum of five (5) years monitored and the program meets the standards of cervidae importation into Tennessee. Such imports shall be accompanied by a certificate of veterinary inspection and an approved cervidae import permit issued by the department pursuant to § 44-21-107. Also, all imported farmed white-tailed deer must be from a certified tuberculosis and brucellosis free herd or have tested negative no more than thirty (30) days prior to import. Farmed white-tailed deer imports shall follow all other disease testing required by law and the department.

44-21-118.

(a) The owner and operator of each licensed farmed white-tailed deer facility shall ensure that the deer are confined to the lands described in the application. The perimeter fencing shall be an eight-foot game or high tensile fence designed in a manner to prevent ingress and egress of deer.

(b) All farmed white-tailed deer shall be confined to the lands approved for the facility and in a manner to prohibit native deer from becoming a part of a licensed facility and farmed white-tailed deer from commingling with native deer.

44-21-119. Damage caused to a farmed white-tailed deer facility perimeter fence by a natural disaster shall not constitute a violation so long as the owner or operator begins any necessary repairs immediately upon discovery, acts expeditiously in the opinion of the department to complete any necessary repairs, and reports the extent and cause of any damage to the department within two (2) working days of discovery.

44-21-120. The owner or operator of any licensed farmed white-tailed deer facility shall notify the department within two (2) working days of discovery of any native deer within the farmed white-tailed deer facility.

44-21-121.

(a) Each new applicant for a farmed white-tailed deer facility license shall file a flushing plan with the department with input of the agency to ensure no native deer remain in a newly established licensed facility.

(b) If the applicant follows the flushing plan according to the rules promulgated by the department, a license shall not be denied, revoked, suspended or canceled if native deer are found to be on the premises of the facility so long as the owner or operator makes every reasonable effort to remove native deer found on the premises.

44-21-122. Export of farmed white-tailed deer originating in any Tennessee county where chronic wasting disease exists in free-ranging native deer herds shall be allowed if exported from a monitored, double-fenced facility that is not quarantined.

44-21-123. An owner or operator shall ensure farmed white-tailed deer do not run at large and shall take all reasonable efforts to return any escaped deer to their enclosures as soon as possible. The owner or operator shall immediately notify the department and the agency if a farmed white-tailed deer escapes. If an owner or operator is unwilling or unable to capture the escaped farmed white-tailed deer, the agency has the authority to destroy the escaped farmed white-tailed deer.

44-21-124. Any farmed white-tailed deer that escape from a farmed white-tailed deer facility and are taken by a licensed hunter in a manner that complies with the agency's rules and regulations shall be considered a legal taking and neither the licensed hunter, the state, nor any state agency shall be liable to the owner for taking the escaped farmed white-tailed deer.

44-21-125.

(a) It is an offense and a violation of this chapter for any person:

(1) To refuse an inspection authorized by this chapter;

(2) To intentionally commingle or integrate any native deer into a farmed white-tailed deer herd;

(3) To intentionally commingle or integrate any farmed white-tailed deer with native deer;

(4) To fail to maintain records as required by law;

(5) To fail to maintain fencing as required by law;

(6) To fail to pay any fee, fine, or penalty as required and established pursuant to this chapter;

(7) To fail to comply with any department order; or

(8) To violate any provision of this chapter.

(b) A violation of subsection (a) is a Class A misdemeanor.

44-21-126. Owners and operators of licensed farmed white-tailed deer facilities may slaughter farmed white-tailed deer at any time throughout the year for personal or noncommercial consumption pursuant to rules promulgated by the department.

44-21-127. Owners and operators of licensed farmed white-tailed deer facilities may sell, use, or dispose of semen, ova and sheds of live farmed white-tailed deer, as well as hides or antlers from slaughtered farmed white-tailed deer, provided they comply with all requirements in rules promulgated by the department. The sale of antler sheds with attached skull plates shall not be restricted. An owner or operator shall only sell or dispose of antler sheds with attached skull plates in the following circumstances:

(1) Each set of antlers shall be individually identified with sufficient documentation linking it to the farmed white-tailed deer facility, including, but not limited to, photographs, lock-on identification tags, DNA testing, or other proof of ownership;

(2) In no case shall an owner or operator sell or dispose of antlers without appropriate documentation; and

(3) The owner or operator shall provide a copy of all appropriate documentation to the purchaser or recipient at the time of sale or disposal.

44-21-128. Licensed farmed white-tailed deer facilities shall comply with all carcass disposal requirements. The following methods may be used for disposal of carcasses from a farmed white-tailed deer facility:

(1) Rendering;

(2) Landfill;

(3) Burial;

(4) Incineration; or

(5) Composting.

44-21-129. Any penalty assessed under this chapter shall be assessed following a hearing in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

44-21-130. Any person with a registration, permit, certificate, license, identification, or order that is canceled or revoked by the department shall be prohibited from obtaining a new registration, permit, certificate, license, identification, or order until after the date the canceled or revoked registration, permit, certificate, license, identification, or order would have expired.

44-21-131. Any person that violates any provision of title 70 shall be subject to the administrative and criminal penalties contained in title 70.

44-21-132. Whenever the state veterinarian finds that an emergency exists requiring immediate action to protect the public health or welfare or to protect farmed white-tailed deer or native deer from any animal disease or pest, the state veterinarian may, without notice or hearing, issue an order that shall be effective upon issuance, reciting the existence of an emergency and requiring that immediate action be taken to meet the emergency.

44-21-133. Any person to whom an emergency order is directed shall comply immediately but may request an administrative enforcement hearing within fifteen (15) days after the order is served. The requested hearing shall be held by the department within ten (10) working days after receipt of request. With the input of the agency, the department shall affirm, revoke, or modify the emergency order based on the hearing record.

44-21-134. Any person aggrieved by the final order may, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, petition for a judicial review of the final order.

44-21-135.

(a)

(1) It is an offense for a person, other than the owner or operator or treating veterinarian, to knowingly and wrongfully injure any farmed white-tailed deer upon the premises of a licensed farmed white-tailed deer facility pursuant to this chapter.

(2) With respect to an owner or operator or treating veterinarian, so long as such person's actions are within the usual and customary practices that are accepted by colleges of agriculture or veterinary medicine, an owner or operator or treating veterinarian does not commit the offense of knowingly and wrongfully injuring a farmed white-tailed deer if such actions would not constitute cruelty under title 38, chapter 1, part 4 as applied to livestock.

(b) A violation of subdivision (a)(1) is a Class D felony and, upon conviction shall be punishable by a fine not less than five thousand dollars ($5,000) or by imprisonment or by both a fine and imprisonment.

(c) In addition, any person violating subdivision (a)(1) shall be liable for damages of not less that three (3) times nor more than ten (10) times such a sum as would compensate for the actual detriment.

44-21-136. After the initial prelicensing inspection, each premise shall be inspected at least once every other year unless there is a change in ownership or change in facilities. The following prelicensing inspections shall occur:

(1) Upon submission of a complete application, the department shall schedule an on-site meeting and inspection to review the facility;

(2) The department shall review the location of the facility, including breeding-pen fencing, gates, feed bunkers, shelter, carcass disposal areas, and any other facilities for the location;

(3) The department may request appropriate changes to the facility design;

(4) In no case shall a license for a farmed white-tailed deer facility be granted unless the department has conducted a prelicensing inspection and the department has approved the facility based on that inspection; and

(5) The license shall be revoked for any facility that does not construct or operate the facility in accordance with the approved prelicensing inspection.

44-21-137. All new facilities shall be inspected prior to issuing a new license and within ninety (90) calendar days of an application being filed in accordance with this chapter. It is the responsibility of the owner or operator to arrange the appropriate inspection and the department shall be given the adequate time to respond to the request for the initial inspection. Authorized agents of the agency shall have the authority to enter and inspect any farmed white-tailed deer facility for the purpose of implementing and enforcing the relevant provisions of title 70.

44-21-138. Upon receipt of a written complaint, the department shall notify the person filing the complaint in writing of its receipt and status within five (5) working days. The party whom the complaint is filed against, if known, shall be notified within five (5) working days. The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies to the extent possible by the department. The complainant and owner shall be notified in writing within seven (7)

working days after resolution of the complaint. The department may initiate an investigation at any time.

44-21-139. The license of any owner or operator may be revoked if it is determined at an administrative hearing that the owner or operator has violated any provision of this chapter. In the event a license is denied, revoked, canceled, or suspended, the owner or operator is not eligible to reapply until after the date the license would have expired.

44-21-140. Upon expiration of a license, the owner or operator may take up to one hundred twenty (120) days to dispose of all farmed white-tailed deer at the facility. In no case shall the farmed white-tailed deer be released into the wild. Cleaning and disinfection of the premises shall be completed immediately upon closure of the facility in circumstances of disease, if required by the department.

44-21-141.

(a) There is created a farmed white-tailed deer advisory committee to consist of the following five (5) members:

(1) The executive director of the Tennessee wildlife resources agency or the executive director's designee;

(2) The state veterinarian;

(3) A designee of the North American Deer Farmers Association;

(4) A designee of the Tennessee Alternative Livestock Association; and

(5) A designee of the Tennessee Farm Bureau.

(b) Members of the committee shall serve voluntarily without compensation and in an advisory capacity to the commissioner based upon their expertise in farmed white-tailed deer and alternative livestock. Membership can be rotated at anytime by the respective designating entities.

SECTION 2. Tennessee Code Annotated, Section 70-4-403(3)(P), is amended by inserting the following language immediately after the first sentence:

Farmed white-tailed deer originating from a legal source while held in captivity for any authorized purpose pursuant to the "White-tailed Deer Breeding and Farming Act", compiled in title 44, chapter 21 shall be regarded as alternative livestock while in captivity at a farmed white-tailed deer facility and Class III wildlife while held in captivity within a perimeter fence at other licensed and approved facilities.

SECTION 3. For purposes of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2011, the public welfare requiring it.