

CHAPTER 170

FARM DEER

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170.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Chronic wasting disease*” means the animal disease afflicting deer and elk that is a transmissible disease of the nervous system resulting in distinctive lesions in the brain and that belongs to the group of diseases that is known as transmissible spongiform encephalopathies (TSE).

2. “*Council*” means the farm deer council established pursuant to section 170.2.

3. “*Department*” means the department of agriculture and land stewardship.

4. a. “*Farm deer*” means an animal belonging to the cervidae family and classified as part of the dama species of the dama genus, commonly referred to as fallow deer; part of the elaphus species of the cervus genus, commonly referred to as red deer or elk; part of the virginianus species of the odocoileus genus, commonly referred to as whitetail; part of the hemionus species of the odocoileus genus, commonly referred to as mule deer; or part of the nippon species of the cervus genus, commonly referred to as sika.

b. “*Farm deer*” does not include any unmarked free-ranging elk, whitetail, or mule deer. “*Farm deer*” also does not include preserve whitetail which are kept on a hunting preserve as provided in chapter 484C.

5. “*Fence*” means a boundary fence which encloses farm deer within a landowner’s property as required to be constructed and maintained pursuant to section 170.4.

6. “*Landowner*” means a person who holds an interest in land, including a titleholder or tenant.

2003 Acts, ch 149, §4, 23; 2005 Acts, ch 139, §1

170.1A Application of chapter.

1. A landowner shall not keep whitetail unless the whitetail are kept as farm deer under this chapter or kept as preserve whitetail on a hunting preserve pursuant to chapter 484C.

2. This chapter authorizes the department of agriculture and land stewardship to regulate whitetail kept as farm deer. However, the department of natural resources shall regulate preserve whitetail kept on a hunting preserve pursuant to chapter 484C.

2005 Acts, ch 139, §2

170.2 Farm deer council.

1. A farm deer council is established within the department.

a. The council shall consist of not more than seven members who shall be appointed by the secretary of agriculture. All members must be actively engaged in the production of farm deer and at least four members must be actively engaged in the production of whitetail as farm deer.

b. The members of the council shall serve staggered terms of two years, except that the initial council members shall serve terms of unequal length. A person appointed to fill a vacancy for a member shall serve only for the unexpired portion of the term. A member is eligible for reappointment for three successive terms.

c. The council shall elect a chairperson and meet according to rules adopted by the council. A majority of the council constitutes a quorum and an affirmative vote of a majority

of members is necessary for substantive action taken by the council. The majority shall not include any member who has a conflict of interest and a statement by a member of a conflict of interest shall be conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the council.

d. A member of the council is not entitled to receive expenses incurred in the discharge of the member's duties on the council. A member is also not entitled to receive compensation as otherwise provided in section 7E.6.

2. The council shall do all of the following:

a. Monitor conditions relating to the production of farm deer, the processing of farm deer products, and the marketing of such products. The council shall advise the department about health issues affecting farm deer, including but not limited to chronic wasting disease, and related regulations or practices.

b. Advise the department about the administration and enforcement of this chapter, including but not limited to consulting with the department regarding the rules adopted under this chapter, the certification of fences, and disciplinary actions. However, the council shall not control policy decisions or direct the administration or enforcement of this chapter.

2003 Acts, ch 149, §5, 23

170.3 Departmental jurisdiction — administration and enforcement.

1. Farm deer are livestock as provided in this title and are principally subject to regulation by the department of agriculture and land stewardship, and also the department of natural resources as specifically provided in this chapter. The regulations adopted by the department of agriculture and land stewardship may include but are not limited to providing for the importation, transportation, and disease control of farm deer. The department of natural resources shall not require that the landowner be issued a license or permit for keeping farm deer or for the construction of a fence for keeping farm deer.

2. The department of agriculture and land stewardship and the department of natural resources shall cooperate in administering and enforcing this chapter.

2003 Acts, ch 149, §6, 23

170.3A Chronic wasting disease control program.

The department shall establish and administer a chronic wasting disease control program for the control of chronic wasting disease which threatens farm deer. The program shall include procedures for the inspection and testing of farm deer, responses to reported cases of chronic wasting disease, and methods to ensure that owners of farm deer may engage in the movement and sale of farm deer.

2005 Acts, ch 172, §21

[P] See also §167.22

170.3B Farm deer administration fee.

The department may establish a farm deer administration fee which shall be annually imposed on each landowner who keeps farm deer in this state. The amount of the fee shall not exceed two hundred dollars per year. The fee shall be collected by the department in a manner specified by rules adopted by the department after consulting with the farm deer council established in section 170.2. The collected fees shall be credited to the farm deer administration fund created pursuant to section 170.3C.

2005 Acts, ch 172, §22

170.3C Farm deer administration fund — appropriation.

A farm deer administration fund is created in the state treasury under the control of the department.

1. The fund shall be composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the department from the United States or private sources for placement in the fund. The fund shall include all moneys collected from the farm deer administration fee as provided in section 170.3B.

2. The moneys in the fund are appropriated exclusively to the department for the purpose of administering the chronic wasting disease control program as provided in section 170.3A.

3. Section 8.33 shall not apply to moneys credited to the fund. Notwithstanding section 12C.7, moneys earned as income or interest from the fund shall remain in the fund until expended as provided in this section.

2005 Acts, ch 172, §23

170.4 Requirements for keeping whitetail — fence certification.

A landowner shall not keep whitetail as farm deer, unless the whitetail is kept on land which is enclosed by a fence. The fence must be constructed and maintained as prescribed by rules adopted by the department. A landowner shall not keep the whitetail unless the fence is certified in a manner and according to procedures required by the department. The fence shall be constructed and maintained to ensure that whitetail are kept in the enclosure and that other deer are excluded from the enclosure. A fence that is constructed on or after May 23, 2003, shall be at least eight feet in height above ground level. The department of agriculture and land stewardship may require that the fence is inspected and approved prior to certification. The department of natural resources may periodically inspect the fence according to appointment with the enclosure's landowner.

2003 Acts, ch 149, §7, 23

170.5 Requirements for releasing whitetail — property interests.

A person shall not release whitetail kept as farm deer onto land unless the landowner complies with all of the following:

1. The landowner must notify the department of natural resources and the department of agriculture and land stewardship at least thirty days prior to first releasing the whitetail on the land. The notice shall be provided in a manner required by the departments. The notice must at least provide all of the following:

a. A statement verifying that the fence which encloses the land is certified by the department of agriculture and land stewardship pursuant to section 170.4.

b. The landowner's name.

c. The location of the land enclosed by the fence.

2. The landowner shall cooperate with the department of natural resources and the department of agriculture and land stewardship to remove any whitetail from the enclosed land. However, after the thirtieth day following receipt of the notice, the state shall relinquish its property interest in any remaining whitetail that the landowner and the cooperating departments were unable to remove from the enclosed land. Any remaining whitetail existing at that time on the enclosed land, and any progeny of the whitetail, shall become property of the landowner.

2003 Acts, ch 149, §8, 23

170.6 Disciplinary proceedings.

1. The department of agriculture and land stewardship may suspend or revoke a certification issued pursuant to section 170.4 if the department determines that a landowner has done any of the following:

a. Provided false information to the department in an application for certification pursuant to section 170.4.

b. Failed to provide notice or access to the department of natural resources and the department of agriculture and land stewardship as required by section 170.5.

c. Failed to maintain a fence enclosing the land where a whitetail is kept as required in section 170.4.

d. Forces or lures a whitetail that is property of the state onto the enclosed land.

e. Restrains or inhibits a whitetail that is property of the state from leaving the enclosed land.

f. Takes a whitetail that is property of the state which is enclosed on the property in violation of a chapter in Title XI, subtitle 6.

2. If the department suspends a landowner's certification, the landowner shall not release

additional whitetail onto the enclosed land, unless otherwise provided in the department's order for suspension. If the department revokes a landowner's certification under this section, the landowner shall provide for the disposition of the enclosed whitetail by any lawful means.

2003 Acts, ch 149, §9, 23; 2003 Acts, ch 179, §66

170.7 Department of natural resources — investigations.

This chapter does not prevent the department of natural resources from conducting an investigation of a violation of fish and game laws, including but not limited to a provision of Title XI, subtitle 6. The department of natural resources may obtain a warrant to search the enclosed land pursuant to chapter 808. This chapter does not prevent the department of natural resources from examining the landowner's business records according to appointment with the enclosure's landowner. The records include but are not limited to those relating to whitetail inventories, health, inspections, or shipments; and the enclosure's fencing.

2003 Acts, ch 149, §10, 23

170.8 Penalties.

A person is guilty of taking a whitetail in violation of section 481A.48 if the whitetail is on the land enclosed by a fence required to be certified as provided in section 170.4 and the person does any of the following:

1. Forces or lures a whitetail that is property of the state onto the enclosed land.
2. Restrains or inhibits a whitetail that is property of the state from leaving the enclosed land.
3. Takes a whitetail that is property of the state that is within the enclosure in violation of a chapter in Title XI, subtitle 6.

2003 Acts, ch 149, §11, 23