

By: Senator(s) Posey, Dawkins, Michel

To: Wildlife and Fisheries

SENATE BILL NO. 2682  
(As Sent to Governor)

1 AN ACT TO DECLARE A TEMPORARY MORATORIUM ON THE IMPORTATION  
2 OF CERTAIN CERVIDS SUSCEPTIBLE TO CHRONIC WASTING DISEASE; TO  
3 AUTHORIZE THE COMMISSION ON WILDLIFE, FISHERIES AND PARKS, THE  
4 DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS, THE COMMISSIONER OF  
5 AGRICULTURE, THE BOARD OF ANIMAL HEALTH, AND THE STATE  
6 VETERINARIAN TO IMPLEMENT SUCH MORATORIUM; TO REQUIRE SUCH  
7 AGENCIES TO COOPERATE AND COORDINATE EFFORTS TO PREVENT THE  
8 INTRODUCTION OF CHRONIC WASTING DISEASE INTO THE STATE; TO EMPOWER  
9 SUCH AGENCIES TO INSPECT, MONITOR AND TEST ANIMALS IN ENCLOSURES  
10 FOR CHRONIC WASTING DISEASE; TO PROVIDE A PENALTY FOR VIOLATIONS  
11 OF THE MORATORIUM; TO AMEND SECTION 69-15-9, AS REENACTED BY  
12 SENATE BILL NO. 2516, 2003 REGULAR SESSION, SECTIONS 69-15-109 AND  
13 49-1-29, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION  
14 49-7-54, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTY FOR  
15 ILLEGAL IMPORTATION OF WHITE-TAILED DEER; TO REGULATE ENCLOSURES  
16 PREVENTING THE FREE EGRESS OF WHITE-TAILED DEER; TO REQUIRE OWNERS  
17 OF SUCH ENCLOSURES TO NOTIFY THE DEPARTMENT OF WILDLIFE, FISHERIES  
18 AND PARKS FOR THE PURPOSE OF MONITORING CHRONIC WASTING DISEASE;  
19 TO REQUIRE SUCH OWNERS TO COMPLY WITH ANY REQUIRED TESTING OF  
20 HARVESTED DEER; TO AUTHORIZE THE DEPARTMENT TO DEPOPULATE DEER  
21 WITHIN AN ENCLOSURE IF CHRONIC WASTING DISEASE IS DIAGNOSED; TO  
22 PROVIDE PENALTIES FOR FAILURE TO COMPLY WITH ENCLOSURE  
23 RESTRICTIONS; TO REQUIRE OWNERS TO KEEP RECORDS; TO AUTHORIZE THE  
24 DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS TO DISPOSE OF ANIMALS  
25 UNDER CERTAIN CONDITIONS; TO AUTHORIZE THE COMMISSION ON WILDLIFE,  
26 FISHERIES AND PARKS TO TEST DEER WITHIN ENCLOSURES FOR CHRONIC  
27 WASTING DISEASE AND TO DEPOPULATE DEER IN AN ENCLOSURE WHERE  
28 CHRONIC WASTING DISEASE IS FOUND; TO REQUIRE OWNERS OF CERTAIN  
29 ENCLOSURES TO COMPLY WITH CHRONIC WASTING DISEASE TESTING AND TO  
30 PROVIDE PENALTIES FOR FAILURE TO COMPLY; TO AMEND SECTION 49-11-3,  
31 MISSISSIPPI CODE OF 1972, TO CLARIFY AUTHORITY OF THE COMMISSION  
32 ON WILDLIFE, FISHERIES AND PARKS TO REGULATE HUNTING OF CERVIDS  
33 WITHIN COMMERCIAL WILDLIFE ENCLOSURES; TO AUTHORIZE THE COMMISSION  
34 ON WILDLIFE, FISHERIES AND PARKS TO REGULATE HUNTING OF CERVIDS IN  
35 NONCOMMERCIAL WILDLIFE ENCLOSURES; TO PROVIDE THAT SECTION  
36 69-15-9, MISSISSIPPI CODE OF 1972, AS AMENDED BY THIS BILL, SHALL  
37 SUPERSEDE THE REENACTED VERSION OF SUCH SECTION; AND FOR RELATED  
38 PURPOSES.

39 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

40 **SECTION 1.** The Legislature finds Chronic Wasting Disease  
41 (CWD) is a transmissible spongiform encephalopathy currently known  
42 to infect free-ranging deer and elk in Colorado, Wyoming,  
43 Nebraska, New Mexico and Wisconsin. The disease has also infected  
44 farmed elk herds in South Dakota, Montana, Nebraska, Colorado,  
45 Kansas and Oklahoma. With the discovery of CWD in free-ranging



46 deer on the east side of the Mississippi River and the transport  
47 of CWD-exposed elk to numerous states, CWD has become a national  
48 concern.

49 Little is known about the biology and pathogenesis of CWD,  
50 including how the disease agent enters the animal, how it  
51 multiplies in the body, how it causes disease and how it is  
52 transmitted. These significant research and knowledge gaps  
53 regarding the fundamental characteristics of the disease greatly  
54 impede plans to control the disease. The only effective control  
55 has been the destruction of captive cervids and the depopulation  
56 of wild cervids in large geographical areas. Because of the  
57 urgency of the situation and the potential devastating effects on  
58 the native wildlife and recreational economies of the states, the  
59 United States Department of Agriculture had formed a task force to  
60 control and eradicate this disease. Preventing the introduction  
61 of the disease and enhancing early detection are a major emphases  
62 of the task force. Diagnostic testing, monitoring of enclosures,  
63 inspections of farmed cervids and sampling of cervid populations  
64 are critical components of the detection and prevention programs.  
65 In addition, many states have imposed emergency statewide  
66 moratoriums on the importation of cervids. There has been a  
67 proliferation of unregulated wildlife enclosures in Mississippi.  
68 Because of the potential devastating effect on native wildlife and  
69 the recreational economy dependent on wildlife, the urgency of the  
70 situation, and the need to ensure the health and safety of native  
71 wildlife and domestic animals, the Legislature finds that a  
72 temporary emergency moratorium and chronic wasting disease  
73 legislation is warranted and in the public interest.

74 **SECTION 2.** (1) (a) In addition to the ban on importing  
75 white-tailed deer under Section 49-7-54, there is hereby imposed a  
76 temporary moratorium on the importation of elk, red deer, mule  
77 deer, black-tailed deer and other cervids designated as  
78 susceptible to chronic wasting disease by the State Veterinarian



79 and crosses of any such animals into the State of Mississippi.  
80 The moratorium on importing such animals shall end upon the  
81 adoption of chronic wasting disease regulations by the United  
82 States Department of Agriculture.

83 (b) Any person who possesses, buys, imports or  
84 transports any cervid that has been imported in the state in  
85 violation of the moratorium shall be subject to a Class I penalty  
86 under Section 49-7-141. Any person that imports any exotic animal  
87 into the state in violation of entry requirements or regulations  
88 of the Board of Animal Health or the Department of Wildlife shall  
89 be subject to a Class I penalty under Section 49-7-141. The  
90 agency issuing a permit for cervids or exotic animals within an  
91 enclosure shall revoke the permit of any person found in violation  
92 of the moratorium. If any cervid in an enclosure tests positive  
93 for chronic wasting disease or if any cervids within the enclosure  
94 have been imported from an area diagnosed with chronic wasting  
95 disease, then all cervids in the enclosure shall be deemed a  
96 threat to native wildlife and to public health and may be killed  
97 and disposed of by the state.

98 (2) It shall be the duty of the Commissioner of Agriculture  
99 and Commerce, the Board of Animal Health, the State Veterinarian,  
100 the Commission on Wildlife, Fisheries and Parks, and the  
101 Department of Wildlife, Fisheries and Parks to consult and  
102 coordinate efforts on matters related to chronic wasting disease,  
103 the prevention of the introduction of chronic wasting disease in  
104 the state and to ensure the health and safety of the public and  
105 wildlife.

106 (3) The Commission on Wildlife, Fisheries and Parks and the  
107 Department of Wildlife, Fisheries and Parks shall have plenary  
108 authority in matters related to the importation of white-tailed  
109 deer, white-tailed deer in enclosures, and prevention of the  
110 introduction of chronic wasting disease into the native wildlife  
111 population.



112           **SECTION 3.** Section 69-15-9, Mississippi Code of 1972, as  
113 reenacted by Senate Bill No. 2516, 2003 Regular Session, is  
114 amended as follows:

115           69-15-9. (1) The Board of Animal Health shall have plenary  
116 power to deal with all contagious and infectious diseases of  
117 animals as in the opinion of the board may be prevented,  
118 controlled or eradicated, and with full power to make, promulgate  
119 and enforce such rules and regulations as in the judgment of the  
120 board may be necessary to control, eradicate and prevent the  
121 introduction and spread of anthrax, tuberculosis, hog cholera,  
122 Texas and splenic fever and the fever-carrying tick (*margaropus*  
123 *annulatus*), cattle brucellosis, anaplasmosis, infectious bovine  
124 rhinotracheitis, muscosal disease, cattle viral diarrhea, cattle  
125 scabies, sheep scabies, hog cholera, swine erysipelas, swine  
126 brucellosis, equine encephalomyelitis, rabies, vesicular diseases,  
127 salmonella group, newcastle disease, infectious laryngotracheitis,  
128 ornithosis-psittacosis, mycoplasma group, chronic wasting disease  
129 and any suspected new and/or foreign diseases of livestock and  
130 poultry and all other diseases of animals in this state, and the  
131 board is hereby vested with full authority to establish and  
132 maintain quarantine lines and to quarantine by county, supervisors  
133 district, parcel of land or herd. The State Veterinarian shall  
134 appoint as many inspectors and range riders as may be deemed  
135 necessary, and the funds at his disposal will permit, and shall  
136 delegate authority to said inspectors and range riders, to enter  
137 premises to inspect and disinfect livestock and premises, and  
138 enforce quarantine including counties, farms, pens, stables and  
139 other premises.

140           (2) No officer or agent of the State Veterinarian may enter  
141 the actual enclosures of any person except (1) with the consent of  
142 the person lawfully in possession thereof or (2) in the absence of  
143 such consent, with a proper writ obtained as in other cases of  
144 searches and seizures under constitutional law. When such



145 officers and agents are lawfully on the premises, either by  
146 permission or writ, they shall be authorized to inspect the  
147 premises and the livestock and animals found thereon by entering  
148 the enclosures and buildings and they are authorized to check  
149 livestock and poultry found therein for any contagious diseases  
150 and take proper action to control or eradicate any such diseases  
151 that may be found. While such officers and agents are performing  
152 their duties hereunder, they shall not be personally liable except  
153 for gross negligence. The refusal without lawful reason of any  
154 person to give the consent aforesaid shall be deemed a misdemeanor  
155 and shall be punishable as for violations of Article 5 of this  
156 chapter as provided for in Section 69-15-115.

157 The Board of Animal Health shall administer the special fund  
158 created in Section 69-15-19.

159 (3) (a) The Board of Animal Health shall have plenary power  
160 to control, prevent, eradicate, inspect and monitor chronic  
161 wasting disease or other contagious disease of exotic cervids or  
162 other exotic livestock. It shall be the duty of the board to  
163 develop an inspection, testing and monitoring program for such  
164 diseases.

165 (b) An officer or agent of the State Veterinarian is  
166 authorized to enter any facility containing cervids or other  
167 exotic livestock to inspect the premises and the cervids or exotic  
168 livestock. Such officer or agent may inspect, monitor or test any  
169 cervid or exotic livestock for disease and may take proper action  
170 to control or eradicate any diseases found. While such officers  
171 or agents are performing their duties, they shall not be  
172 personally liable, except for gross negligence.

173 (c) As a condition of maintaining a permit for a cervid  
174 or other exotic livestock facility, it shall be the duty of the  
175 permittee to allow the agents of the State Veterinarian to enter  
176 the facility and to conduct inspections and tests.



177       (4) As a condition of maintaining a permit for a cervid or  
178 other exotic livestock facility, the permittee shall immediately  
179 notify the State Veterinarian upon discovery of the escape of a  
180 cervid or exotic livestock. Any such animal shall be treated as  
181 an escaped wild animal and may be disposed of accordingly.

182       **SECTION 4.** Section 69-15-109, Mississippi Code of 1972, is  
183 amended as follows:

184       69-15-109. (1) The Governor of the State of Mississippi,  
185 when advised by the Board of Animal Health that an emergency  
186 exists due to the presence of foot and mouth disease, rinderpest,  
187 contagious pleuropneumonia, or other contagious or infectious  
188 diseases of animals, or European fowl pest and similar diseases  
189 among poultry, in this state, or chronic wasting disease in any  
190 cervids, is hereby authorized to declare a state of emergency and  
191 to order all animals or poultry quarantined or slaughtered that  
192 may be affected with, or possible carriers of such diseases.

193       (2) The Governor is hereby authorized and empowered to  
194 cooperate with any department of the federal government engaged in  
195 the combating and control of any such disease mentioned in  
196 subsection (1) and to this end the Governor is authorized and  
197 empowered to do any and all things in cooperation with the federal  
198 government necessary to the control and extermination of any such  
199 diseases mentioned in subsection (1) among animals or poultry that  
200 may be affected therewith.

201       (3) For the purposes of this section, the Governor shall  
202 have full and complete police power, and shall exercise same  
203 anywhere in the State of Mississippi, and if an emergency should  
204 exist to such an extent that such becomes necessary the Governor  
205 may employ such personnel to enforce such police powers and  
206 quarantine that may be necessary to control and prevent the  
207 spreading of any such diseases mentioned in subsection (1) among  
208 animals or poultry in this state. Such personnel when appointed  
209 by the Governor shall work under the direction of the Mississippi



210 Board of Animal Health, or its representative, and shall be paid  
211 such compensation as the Governor may determine out of any money  
212 made available for the enforcement of this section.

213 (4) When any animals or poultry or materials are ordered to  
214 be destroyed, under the provisions of this section, the owner of  
215 same shall be paid for each such animal or poultry or materials  
216 destroyed an amount not exceeding the amount authorized to be paid  
217 by the federal government in matching funds expended for the  
218 destruction of each such animal or poultry or materials infected  
219 with any such diseases mentioned in subsection (1).

220 (5) In the event of the happening of an outbreak of any such  
221 diseases mentioned in subsection (1) in Mississippi, the Governor  
222 is hereby authorized to borrow not to exceed Two Hundred Thousand  
223 Dollars (\$200,000.00) to carry out the terms and provisions of  
224 this section.

225 **SECTION 5.** Section 49-1-29, Mississippi Code of 1972, is  
226 amended as follows:

227 49-1-29. The commission may promulgate rules and  
228 regulations, inaugurate studies and surveys, and establish any  
229 services it deems necessary to carry out wildlife laws. A  
230 violation of any rules or regulations promulgated by the  
231 commission shall constitute a misdemeanor and shall be punished as  
232 provided in Section 49-7-101.

233 The executive director shall have authority with commission  
234 approval:

235 (a) To close or shorten the open season as prescribed  
236 by law in cases of urgent emergency on any species of game birds,  
237 game or fur-bearing animals, reptiles, fish or amphibians, in any  
238 locality, when it finds after investigation and public review that  
239 the action is reasonably necessary to secure the perpetuation of  
240 any species of game birds, game or fur-bearing animals, reptiles,  
241 fish or amphibians and to maintain an adequate supply in the  
242 affected area. The statutes shall continue in full force and



243 effect, except as restricted and limited by the rules and  
244 regulations promulgated by the commission.

245 (b) To designate wildlife refuges, with the consent of  
246 the property owner or owners, in any localities it finds necessary  
247 to secure perpetuation of any species of game birds, game or  
248 fur-bearing animals, reptiles, fish or amphibians and to maintain  
249 an adequate supply for the purpose of providing a safe retreat  
250 where the animals may rest and replenish adjacent hunting,  
251 trapping or fishing grounds or waters.

252 (c) To acquire and hold for the state by purchase,  
253 condemnation, lease, or agreement as authorized from time to time  
254 by the Legislature, and to receive by gifts or devise, lands or  
255 water suitable for fish habitats, game and bird habitats, state  
256 parks, access sites, wildlife refuges, or for public shooting,  
257 trapping or fishing grounds or waters, to provide areas on which  
258 any citizen may hunt, trap or fish under any special regulations  
259 as the commission may prescribe.

260 (d) To extend and consolidate lands or waters suitable  
261 for the above purposes by exchange of lands or waters under its  
262 jurisdiction.

263 (e) To capture, propagate, transport, sell or exchange  
264 any species of game birds, game or fur-bearing animals, reptiles,  
265 fish or amphibians needed for stocking or restocking any lands or  
266 waters of the state.

267 (f) To enter into cooperative agreements with persons,  
268 firms, corporations or governmental agencies for purposes  
269 consistent with this chapter.

270 (g) To regulate the burning of rubbish, slashings and  
271 marshes or other areas it may find reasonably necessary to reduce  
272 the danger of destructive fires.

273 (h) To conduct research in improved wildlife and  
274 fisheries conservation methods and to disseminate information to





275 the residents of the state through the schools, public media and  
276 other publications.

277 (i) To have exclusive charge and control of the  
278 propagation and distribution of wild birds, animals, reptiles,  
279 fish and amphibians, the conduct and control of hatcheries,  
280 biological stations and game and fur farms owned or acquired by  
281 the state; to expend for the protection, propagation or  
282 preservation of game birds, game or fur-bearing animals, reptiles,  
283 fish and amphibians all funds of the state acquired for this  
284 purpose arising from licenses, gifts or otherwise; and shall have  
285 charge of the enforcement of all wildlife laws.

286 (j) To grant permits and provide regulations for field  
287 trials and dog trainers.

288 (k) To prohibit and to regulate the taking of nongame  
289 gross fish, except minnows.

290 (l) To enter into agreements with landowners to trap  
291 and purchase quail on the premises of the landowner and to provide  
292 for the distribution of quail.

293 (m) To operate or lease to third persons concessions or  
294 other rights or privileges on lakes owned or leased by the  
295 department. Owners of land adjoining land owned or leased by the  
296 department shall have priority to the concessions or rights or  
297 privileges, if the owners meet the qualifications established by  
298 the commission.

299 (n) To implement a beaver control program and to charge  
300 fees, upon the recommendation of the Beaver Control Advisory  
301 Board, to landowners participating in the beaver control program  
302 described in Section 49-7-201.

303 (o) To apply for, receive and expend any federal, state  
304 or local funds, contributions or funds from any other source for  
305 the purpose of beaver control or eradication.

306 (p) To require the department to divide the districts  
307 into zones if necessary, and periodically survey the districts or



308 zones to obtain information that is necessary to properly  
309 determine the population and allowable harvest limits of wildlife  
310 within the district or zone.

311 (q) To require Chronic Wasting Disease (CWD) testing of  
312 white-tailed deer harvested within any enclosure; to grant  
313 wildlife personnel authority to access the property and depopulate  
314 white-tailed deer within an enclosure where CWD has been  
315 diagnosed; and to grant wildlife personnel authority to access the  
316 property and utilize lethal collection methods to obtain tissue  
317 samples for testing where CWD has been diagnosed within five (5)  
318 miles of the enclosure.

319 **SECTION 6.** Section 49-7-54, Mississippi Code of 1972, is  
320 amended as follows:

321 49-7-54. (1) It is unlawful to import and translocate live  
322 white-tailed deer into this state, except that university research  
323 facilities may import live white-tailed deer upon prior approval  
324 of the commission. The commission shall establish regulations  
325 governing the importation of white-tailed deer with emphasis on  
326 preventing the introduction of diseases.

327 (2) A person who violates this section is guilty of a Class  
328 I violation and shall be punished as provided in Section 49-7-141.

329 **SECTION 7.** (1) The owner of any enclosure containing  
330 white-tailed deer that prevents the free egress of white-tailed  
331 deer from the enclosed area shall notify and register with the  
332 Department of Wildlife, Fisheries and Parks. The person shall  
333 give his name, the location of the enclosure, the acreage within  
334 the enclosure, and whether any deer have been imported into the  
335 state and placed in the enclosure, and any other information  
336 required by the Commissioner on Wildlife, Fisheries and Parks.

337 (2) Persons who constructed an enclosure prior to July 1,  
338 2003, shall have until January 1, 2004, to notify and provide the  
339 information required under this section. The person shall use



340 acceptable hunting and wildlife management practices as may be  
341 determined by the department.

342 (3) The owner of such an enclosure shall comply with any  
343 testing of white-tailed deer harvested within the enclosure as may  
344 be required by the department. If chronic wasting disease is  
345 diagnosed within five (5) miles of the enclosure, the owner of  
346 such enclosure shall allow department personnel to enter the  
347 enclosure to utilize lethal collection methods to obtain tissue  
348 samples for testing. If chronic wasting disease is diagnosed  
349 within the enclosure, the owner shall allow department personnel  
350 to enter the enclosure and depopulate the white-tailed deer within  
351 the enclosure.

352 (4) A violation of this section is a Class II violation and  
353 is punishable as provided in Section 49-7-143. A second or  
354 subsequent violation of this section is a Class I violation and is  
355 punishable as provided in Section 49-7-141.

356 **SECTION 8.** (1) The Department of Wildlife, Fisheries and  
357 Parks shall develop and implement a program for inspecting,  
358 monitoring, testing and preventing chronic wasting disease. The  
359 Department of Wildlife, Fisheries and Parks is authorized to  
360 require the chronic wasting disease testing of white-tailed deer  
361 harvested within any enclosure. If chronic wasting disease is  
362 diagnosed in white-tailed deer within an enclosure, the department  
363 is authorized to enter the enclosure and depopulate the  
364 white-tailed deer within the enclosure. If chronic wasting  
365 disease is diagnosed within five (5) miles of the enclosure, the  
366 department is authorized to enter the enclosure and utilize lethal  
367 collection methods to obtain tissue samples.

368 (2) If a live test for chronic wasting disease is developed,  
369 the department is authorized to conduct such tests on white-tailed  
370 deer within any enclosure.

371 **SECTION 9.** Section 49-11-3, Mississippi Code of 1972, is  
372 amended as follows:



373 49-11-3. (1) The department may issue operating licenses to  
374 any person, partnership, association or corporation for the  
375 operation of shooting preserves or commercial wildlife enclosures  
376 that meet the following requirements and any applicable  
377 regulations:

378 (a) Each shooting preserve shall contain a minimum of  
379 one hundred (100) acres in one (1) tract of leased or owned land  
380 (including water area, if any) and shall be restricted to not more  
381 than six hundred forty (640) contiguous acres (including water  
382 area, if any), except that preserves confined to the releasing of  
383 ducks only may be authorized to operate with a minimum of fifty  
384 (50) contiguous acres (including water area).

385 (b) The boundaries of each shooting preserve shall be  
386 clearly defined and posted with signs erected at intervals of  
387 three hundred (300) feet or less.

388 (c) Each commercial wildlife enclosure shall contain a  
389 minimum of three hundred (300) acres in one (1) tract of leased or  
390 owned land (including water area, if any). No commercial wildlife  
391 enclosure shall be constructed in such a manner as to allow  
392 ingress of native wild animals without providing means of egress.

393 (d) The preserve or enclosure must be privately owned  
394 and operated.

395 (2) The commission may issue any rules or regulations  
396 necessary to regulate shooting preserves and commercial wildlife  
397 enclosures and to enforce this chapter.

398 (3) (a) The commission may regulate the hunting of  
399 nonnative cervids within a commercial wildlife enclosure, and the  
400 department may enter such enclosure as provided under Section  
401 49-11-25 and enforce such regulations.

402 (b) This subsection (3) shall repeal on July 1, 2005.

403 **SECTION 10.** (1) The Commission on Wildlife, Fisheries and  
404 Parks may regulate the hunting of nonnative cervids in  
405 noncommercial wildlife enclosures, and the Department of Wildlife,



406 Fisheries and Parks may enforce such regulations and laws in the  
407 same manner as commercial wildlife enclosures as provided in  
408 Section 49-11-25.

409 (2) This section shall repeal on July 1, 2005.

410 **SECTION 11.** Pursuant to Section 1-3-79, Mississippi Code of  
411 1972, the amendments to Section 69-15-9, Mississippi Code of 1972,  
412 contained in this Senate Bill No. 2682, 2003 Regular Session,  
413 shall supersede the reenacted section contained in Senate Bill No.  
414 2516, 2003 Regular Session.

415 **SECTION 12.** This act shall take effect and be in force from  
416 and after its passage.

