

By: Senator(s) Posey

To: Wildlife, Fisheries and
Parks

SENATE BILL NO. 2684

1 AN ACT TO BRING FORWARD SECTIONS 49-1-29, 49-7-34, 49-7-58
2 THROUGH 49-7-58.3, 49-7-78, AND 49-11-1 THROUGH 49-11-29,
3 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF AMENDING LAWS
4 REGULATING HUNTING ENCLOSURES; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 49-1-29, Mississippi Code of 1972, is
7 brought forward as follows:

8 49-1-29. The commission may promulgate rules and
9 regulations, inaugurate studies and surveys, and establish any
10 services it deems necessary to carry out wildlife laws. A
11 violation of any rules or regulations promulgated by the
12 commission shall constitute a misdemeanor and shall be punished as
13 provided in Section 49-7-101.

14 The executive director shall have authority with commission
15 approval:

16 (a) To close or shorten the open season as prescribed
17 by law in cases of urgent emergency on any species of game birds,
18 game or fur-bearing animals, reptiles, fish or amphibians, in any
19 locality, when it finds after investigation and public review that
20 the action is reasonably necessary to secure the perpetuation of
21 any species of game birds, game or fur-bearing animals, reptiles,
22 fish or amphibians and to maintain an adequate supply in the
23 affected area. The statutes shall continue in full force and
24 effect, except as restricted and limited by the rules and
25 regulations promulgated by the commission.

26 (b) To designate wildlife refuges, with the consent of
27 the property owner or owners, in any localities it finds necessary
28 to secure perpetuation of any species of game birds, game or

29 fur-bearing animals, reptiles, fish or amphibians and to maintain
30 an adequate supply for the purpose of providing a safe retreat
31 where the animals may rest and replenish adjacent hunting,
32 trapping or fishing grounds or waters.

33 (c) To acquire and hold for the state by purchase,
34 condemnation, lease, or agreement as authorized from time to time
35 by the Legislature, and to receive by gifts or devise, lands or
36 water suitable for fish habitats, game and bird habitats, state
37 parks, access sites, wildlife refuges, or for public shooting,
38 trapping or fishing grounds or waters, to provide areas on which
39 any citizen may hunt, trap or fish under any special regulations
40 as the commission may prescribe.

41 (d) To extend and consolidate lands or waters suitable
42 for the above purposes by exchange of lands or waters under its
43 jurisdiction.

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

48 (f) To enter into cooperative agreements with persons,
49 firms, corporations or governmental agencies for purposes
50 consistent with this chapter.

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

54 (h) To conduct research in improved wildlife and
55 fisheries conservation methods and to disseminate information to
56 the residents of the state through the schools, public media and
57 other publications.

58 (i) To have exclusive charge and control of the
59 propagation and distribution of wild birds, animals, reptiles,
60 fish and amphibians, the conduct and control of hatcheries,
61 biological stations and game and fur farms owned or acquired by

62 the state; to expend for the protection, propagation or
63 preservation of game birds, game or fur-bearing animals, reptiles,
64 fish and amphibians all funds of the state acquired for this
65 purpose arising from licenses, gifts or otherwise; and shall have
66 charge of the enforcement of all wildlife laws.

67 (j) To grant permits and provide regulations for field
68 trials and dog trainers.

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

71 (l) To enter into agreements with landowners to trap
72 and purchase quail on the premises of the landowner and to provide
73 for the distribution of quail.

74 (m) To operate or lease to third persons concessions or
75 other rights or privileges on lakes owned or leased by the
76 department. Owners of land adjoining land owned or leased by the
77 department shall have priority to the concessions or rights or
78 privileges, if the owners meet the qualifications established by
79 the commission.

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

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

87 (p) To require the department to divide the districts
88 into zones if necessary, and periodically survey the districts or
89 zones to obtain information that is necessary to properly
90 determine the population and allowable harvest limits of wildlife
91 within the district or zone.

92 (q) To require Chronic Wasting Disease (CWD) testing of
93 white-tailed deer harvested within any enclosure; to grant
94 wildlife personnel authority to access the property and depopulate

95 white-tailed deer within an enclosure where CWD has been
96 diagnosed; and to grant wildlife personnel authority to access the
97 property and utilize lethal collection methods to obtain tissue
98 samples for testing where CWD has been diagnosed within five (5)
99 miles of the enclosure.

100 **SECTION 2.** Section 49-7-34, Mississippi Code of 1972, is
101 brought forward as follows:

102 49-7-34. (1) The Commission on Wildlife, Fisheries and
103 Parks shall not prohibit the operation of a hunting enclosure for
104 hunting or pursuing rabbit, fox or coyote, but the commission may
105 prescribe regulations and require a permit for the operation of
106 such hunting enclosures. Application for the permit shall be
107 submitted to the Department of Wildlife, Fisheries and Parks. The
108 department shall inspect and approve such hunting enclosure before
109 issuing a permit. The permit fee shall be a reasonable amount, to
110 be determined by the commission.

111 (2) Such hunting enclosure shall consist of an area fully
112 enclosed by a fence. Such fence shall be constructed in such a
113 manner as may be prescribed by the commission.

114 (3) A person who violates this section or any regulation
115 pertaining to hunting enclosures is guilty of a Class II violation
116 and is punishable as provided in Section 49-7-143, Mississippi
117 Code of 1972, and may, at the discretion of the commission, have
118 his permit revoked for a period of twelve (12) months.

119 **SECTION 3.** Section 49-7-58, Mississippi Code of 1972, is
120 brought forward as follows:

121 49-7-58. (1) (a) In addition to the ban on importing
122 white-tailed deer under Section 49-7-54, there is hereby imposed a
123 temporary moratorium on the importation of elk, red deer, mule
124 deer, black-tailed deer and other cervids designated as
125 susceptible to chronic wasting disease by the State Veterinarian
126 and crosses of any such animals into the State of Mississippi.
127 The moratorium on importing such animals shall end upon the

128 adoption of chronic wasting disease regulations by the United
129 States Department of Agriculture.

130 (b) Any person who possesses, buys, imports or
131 transports any cervid that has been imported in the state in
132 violation of the moratorium shall be subject to a Class I penalty
133 under Section 49-7-141. Any person that imports any exotic animal
134 into the state in violation of entry requirements or regulations
135 of the Board of Animal Health or the Department of Wildlife shall
136 be subject to a Class I penalty under Section 49-7-141. The
137 agency issuing a permit for cervids or exotic animals within an
138 enclosure shall revoke the permit of any person found in violation
139 of the moratorium. If any cervid in an enclosure tests positive
140 for chronic wasting disease or if any cervids within the enclosure
141 have been imported from an area diagnosed with chronic wasting
142 disease, then all cervids in the enclosure shall be deemed a
143 threat to native wildlife and to public health and may be killed
144 and disposed of by the state.

145 (2) It shall be the duty of the Commissioner of Agriculture
146 and Commerce, the Board of Animal Health, the State Veterinarian,
147 the Commission on Wildlife, Fisheries and Parks, and the
148 Department of Wildlife, Fisheries and Parks to consult and
149 coordinate efforts on matters related to chronic wasting disease,
150 the prevention of the introduction of chronic wasting disease in
151 the state and to ensure the health and safety of the public and
152 wildlife.

153 (3) The Commission on Wildlife, Fisheries and Parks and the
154 Department of Wildlife, Fisheries and Parks shall have plenary
155 authority in matters related to the importation of white-tailed
156 deer, white-tailed deer in enclosures, and prevention of the
157 introduction of chronic wasting disease into the native wildlife
158 population.

159 **SECTION 4.** Section 49-7-58.1, Mississippi Code of 1972, is
160 brought forward as follows:

161 49-7-58.1. (1) The owner of any enclosure containing
162 white-tailed deer that prevents the free egress of white-tailed
163 deer from the enclosed area shall notify and register with the
164 Department of Wildlife, Fisheries and Parks. The person shall
165 give his name, the location of the enclosure, the acreage within
166 the enclosure, and whether any deer have been imported into the
167 state and placed in the enclosure, and any other information
168 required by the Commissioner on Wildlife, Fisheries and Parks.

169 (2) Persons who constructed an enclosure prior to July 1,
170 2003, shall have until January 1, 2004, to notify and provide the
171 information required under this section. The person shall use
172 acceptable hunting and wildlife management practices as may be
173 determined by the department.

174 (3) The owner of such an enclosure shall comply with any
175 testing of white-tailed deer harvested within the enclosure as may
176 be required by the department. If chronic wasting disease is
177 diagnosed within five (5) miles of the enclosure, the owner of
178 such enclosure shall allow department personnel to enter the
179 enclosure to utilize lethal collection methods to obtain tissue
180 samples for testing. If chronic wasting disease is diagnosed
181 within the enclosure, the owner shall allow department personnel
182 to enter the enclosure and depopulate the white-tailed deer within
183 the enclosure.

184 (4) A violation of this section is a Class II violation and
185 is punishable as provided in Section 49-7-143. A second or
186 subsequent violation of this section is a Class I violation and is
187 punishable as provided in Section 49-7-141.

188 **SECTION 5.** Section 49-7-58.2, Mississippi Code of 1972, is
189 brought forward as follows:

190 49-7-58.2. (1) The Department of Wildlife, Fisheries and
191 Parks shall develop and implement a program for inspecting,
192 monitoring, testing and preventing chronic wasting disease. The
193 Department of Wildlife, Fisheries and Parks is authorized to

194 require the chronic wasting disease testing of white-tailed deer
195 harvested within any enclosure. If chronic wasting disease is
196 diagnosed in white-tailed deer within an enclosure, the department
197 is authorized to enter the enclosure and depopulate the
198 white-tailed deer within the enclosure. If chronic wasting
199 disease is diagnosed within five (5) miles of the enclosure, the
200 department is authorized to enter the enclosure and utilize lethal
201 collection methods to obtain tissue samples.

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

205 **SECTION 6.** Section 49-7-58.3, Mississippi Code of 1972, is
206 brought forward as follows:

207 49-7-58.3. (1) The Commission on Wildlife, Fisheries and
208 Parks may regulate the hunting of nonnative cervids in
209 noncommercial wildlife enclosures, and the Department of Wildlife,
210 Fisheries and Parks may enforce such regulations and laws in the
211 same manner as commercial wildlife enclosures as provided in
212 Section 49-11-25.

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

214 **SECTION 7.** Section 49-7-78, Mississippi Code of 1972, is
215 brought forward as follows:

216 49-7-78. For purposes of this section, the term "canned
217 hunts" means the practice of providing a hunting opportunity under
218 controlled conditions in which native game animals hunted may not
219 have a reasonable opportunity to avoid the hunter. Canned hunts
220 are prohibited in the state. The commission shall adopt
221 regulations it deems necessary to prohibit and control such hunts.
222 Nothing in this section shall prohibit the operation of private
223 shooting preserves or commercial wildlife enclosures as authorized
224 by statute.

225 **SECTION 8.** Section 49-11-1, Mississippi Code of 1972, is
226 brought forward as follows:

227 49-11-1. For purposes of this chapter:

228 (a) "Commission" means the Commission on Wildlife,
229 Fisheries and Parks.

230 (b) "Department" means the Department of Wildlife,
231 Fisheries and Parks.

232 (c) "Operator" means a person licensed to operate a
233 shooting preserve or a commercial wildlife enclosure.

234 **SECTION 9.** Section 49-11-3, Mississippi Code of 1972, is
235 brought forward as follows:

236 49-11-3. (1) The department may issue operating licenses to
237 any person, partnership, association or corporation for the
238 operation of shooting preserves or commercial wildlife enclosures
239 that meet the following requirements and any applicable
240 regulations:

241 (a) Each shooting preserve shall contain a minimum of
242 one hundred (100) acres in one (1) tract of leased or owned land
243 (including water area, if any) and shall be restricted to not more
244 than six hundred forty (640) contiguous acres (including water
245 area, if any), except that preserves confined to the releasing of
246 ducks only may be authorized to operate with a minimum of fifty
247 (50) contiguous acres (including water area).

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

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

256 (d) The preserve or enclosure must be privately owned
257 and operated.

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

261 (3) (a) The commission may regulate the hunting of
262 nonnative cervids within a commercial wildlife enclosure, and the
263 department may enter such enclosure as provided under Section
264 49-11-25 and enforce such regulations.

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

266 **SECTION 10.** Section 49-11-5, Mississippi Code of 1972, is
267 brought forward as follows:

268 49-11-5. The fee for a shooting preserve license or a
269 commercial wildlife enclosure license shall be One Hundred Dollars
270 (\$100.00) per year for the first three hundred (300) acres of
271 shooting preserve area or commercial wildlife enclosure area, and
272 Ten Dollars (\$10.00) per year for each additional one hundred
273 (100) acres or parts thereof.

274 **SECTION 11.** Section 49-11-7, Mississippi Code of 1972, is
275 brought forward as follows:

276 49-11-7. Each license issued by the department shall
277 designate whether or not the preserve or commercial wildlife
278 enclosure is open to the public on a commercial basis, or is
279 restricted to a membership or other limited group. In the latter
280 case, the license shall specify that the area is a restricted
281 shooting preserve or commercial wildlife enclosure. The
282 department shall maintain accurate listings of the names and
283 addresses of the licensees and the location of the property.
284 These lists shall be made available in their entirety to anyone
285 requesting a copy, and shall specify whether the preserves or
286 enclosures are public or private.

287 **SECTION 12.** Section 49-11-9, Mississippi Code of 1972, is
288 brought forward as follows:

289 49-11-9. This chapter is supplemental and in addition to any
290 other laws on related subject matters. Any license required under

291 this chapter is in addition to any other licenses which may be
292 required for commercial raising and sale of game birds or for the
293 raising of game birds for propagation.

294 **SECTION 13.** Section 49-11-15, Mississippi Code of 1972, is
295 brought forward as follows:

296 49-11-15. (1) Artificially propagated pheasants, quail,
297 chukar partridges, mallards and black ducks, and any game bird
298 authorized by the commission are the only game which may be hunted
299 on shooting preserves under this chapter.

300 (2) Mallards and black ducks released on a shooting preserve
301 must have a one-fourth (1/4) inch hole punched in the outer web of
302 the right foot before the birds attain the age of six (6) weeks.

303 (3) The commission is authorized to specify the species of
304 nonnative wild game that may be released or hunted in commercial
305 wildlife enclosures.

306 **SECTION 14.** Section 49-11-17, Mississippi Code of 1972, is
307 brought forward as follows:

308 49-11-17. The operating licenses issued by the department
309 shall entitle licensees, and their guests or customers, to recover
310 the total number of each species of game released on the premises
311 each year.

312 **SECTION 15.** Section 49-11-19, Mississippi Code of 1972, is
313 brought forward as follows:

314 49-11-19. Operators may establish shooting limitations and
315 restrictions on the age, sex and number of each species of
316 released game that may be taken by each person.

317 **SECTION 16.** Section 49-11-23, Mississippi Code of 1972, is
318 brought forward as follows:

319 49-11-23. The operator shall furnish and issue a
320 consecutively numbered certificate to any hunter or person leaving
321 with harvested game. The certificate shall bear the license
322 number and name of the shooting preserve or commercial wildlife
323 enclosure or its licensed operator. The certificate shall contain

324 the person's name, address, date of issuance and number and
325 species of harvested game in possession. The certificate must
326 remain with the harvested game until the game is prepared for
327 consumption.

328 **SECTION 17.** Section 49-11-25, Mississippi Code of 1972, is
329 brought forward as follows:

330 49-11-25. Each operator shall maintain a registration book
331 listing the names and hunting license numbers of all hunters and
332 the date on which they hunted. An accurate record must be
333 maintained of the total number, by species, of game released and
334 harvested each day the preserve or enclosure is hunted. The
335 operator shall submit this information in an annual report of
336 operations each year to the department not later than June 1
337 following. These records shall be open to inspection by the
338 department at any reasonable time. Any person, partnership,
339 association or corporation licensed hereunder consents to the
340 patrolling of the shooting preserve or commercial wildlife
341 enclosure areas by the department, without warrant, to determine
342 if any of the game laws or regulations are being violated.

343 **SECTION 18.** Section 49-11-27, Mississippi Code of 1972, is
344 brought forward as follows:

345 49-11-27. Any person, firm or corporation violating any
346 provision of this chapter is guilty of a Class II violation, and
347 upon conviction thereof shall be punished as provided in Section
348 49-7-143. A multiple violator of this chapter shall be assessed
349 the maximum allowable fine, and may, at the discretion of the
350 commission, have his operator's license suspended by operation of
351 law for a period of one (1) year.

352 **SECTION 19.** Section 49-11-29, Mississippi Code of 1972, is
353 brought forward as follows:

354 49-11-29. This chapter shall not apply to the operation of
355 fox, coyote and rabbit enclosures as set forth in Section 49-7-34,

356 Mississippi Code of 1972, and shall not be construed to regulate
357 the operation of fox, coyote and rabbit enclosures.

358 **SECTION 20.** This act shall take effect and be in force from
359 and after July 1, 2005.