As Introduced

128th General Assembly Regular Session 2009-2010

H. B. No. 410

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Representative Okey

Cosponsors: Representatives Weddington, Domenick, Stebelton, Zehringer, Amstutz

A BILL

То	amend sections 901.511, 918.12, and 943.01 and to	1
	enact sections 943.20 to 943.30 of the Revised	2
	Code to establish an agricultural deer propagating	3
	license, an agricultural deer hunting preserve	4
	license, and corresponding requirements under the	5
	authority of the Director of Agriculture.	6
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

local governmental agency or that is produced for personal,

commercial, pharmaceutical, or educational purposes: field crop or

Section 1. That sections 901.511, 918.12, and 943.01 be	8
amended and sections 943.20, 943.21, 943.22, 943.23, 943.24,	9
943.25, 943.26, 943.27, 943.28, 943.29, and 943.30 of the Revised	10
Code be enacted to read as follows:	11
Sec. 901.511. (A) As used in this section:	12
(1) "Agricultural product" means any of the following items	13
that is produced for testing or research in the context of a	14
product development program in conjunction or coordination with a	15
private research facility, a university, or any federal, state, or	16

field crop product; timber or timber product; forestry product;	19
livestock or livestock product; meat or meat product; milk or	20
dairy product; poultry or poultry product; equine animal; wool;	21
fruit or vegetable crop; aquacultural product; horticultural crop,	22
including plant materials grown in a greenhouse, nursery stock	23
grown inside or outside of a container, ornamental grass, turf	24
grass, ornamental trees, ornamental shrubs, or flowers; sod;	25
mushrooms; viticultural product; apicultural product; tobacco;	26
pasture; wild animal or domestic deer, as "wild animal" and	27
"domestic deer" are defined in section 1531.01 of the Revised	28
Code; agricultural deer as defined in section 943.20 of the	29
Revised Code; or any combination of those items.	30
(2) "Equipment" means any implement, machinery, real or	31

- (2) "Equipment" means any implement, machinery, real or
 personal property, building, or structure that is used in the
 production, growing, harvesting, or housing of any agricultural
 product. "Equipment" also includes any laboratory, research,
 product, samples, supplies, or fixed equipment that is used to
 test, develop, or analyze the process of producing, growing, or
 maintaining any agricultural product.

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- (3) "Material support or resources" means currency, payment
 instruments, other financial securities, financial services,
 lodging, training, safehouses, false documentation or
 identification, communications equipment, facilities, weapons,
 lethal substances, explosives, personnel, transportation, and
 other physical assets, except medicine or religious materials.
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- (4) "Payment instrument" means a check, draft, money order,
 traveler's check, cashier's check, teller's check, or other
 instrument or order for the transmission or payment of money
 regardless of whether the item in question is negotiable.
 - (5) "Specified offense" means either of the following:
 - (a) A violation of section 2909.02, 2909.03, 2909.05, 49

(D)(1) In addition to the penalties established in section

901.99 of the Revised Code for a violation of this section, the

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court may require any person who violates this section to pay the	80
victim of the offense an amount up to triple the value of the	81
agricultural product or equipment that was the subject of the	82
violation.	83

- (2) In ordering restitution under division (D)(1) of this 84 section, the court shall consider as part of the value of the 85 agricultural product or equipment the market value of the 86 agricultural product or equipment prior to the violation and the 87 production, research, testing, replacement, and development costs 88 directly related to the agricultural product or equipment that was 89 the subject of the violation.
- (E) The enactment of this section is not intended to require 91 the prosecution exclusively under this section of an act, series 92 of acts, or course of behavior that could be prosecuted either 93 under this section or under another section of the Revised Code. 94 One or more acts, series of acts, or courses of behavior that may 95 be prosecuted either under this section or under another section 96 of the Revised Code may be prosecuted under this section, the 97 other section, or both sections. 98
- Sec. 918.12. (A) An establishment, as defined in section 99 918.01 of the Revised Code, that slaughters or otherwise prepares 100 meat of bison, cervidea, other bovidea, camelidae and hybrids 101 thereof, ratites, domestic rabbits, agricultural deer as defined 102 in section 943.20 of the Revised Code, domestic deer, as defined 103 in section 1531.01 of the Revised Code, or other animals 104 determined by the director of agriculture by rule for human food 105 purposes may receive voluntary state inspection, as defined in 106 division (B) of section 918.01 of the Revised Code, if the 107 establishment complies with sections 918.01 to 918.11 of the 108 Revised Code and the rules adopted under those sections for 109 establishments that slaughter or otherwise prepare for food 110

purposes other animals and if the establishment complies with	111
division (C) of this section.	112
(B) The owner of an establishment, as defined in section	113
918.21 of the Revised Code, who slaughters or otherwise prepares	114
the meat of pheasant, quail, partridge, peafowl, grouse, captive	115
raised wild turkey, captive raised waterfowl, or other poultry	116
determined by the director by rule may receive voluntary state	117
inspection as defined in division (I) of section 918.21 of the	118
Revised Code and the rules adopted under those sections for	119
establishments that slaughter or otherwise prepare for food	120
purposes other poultry and if the establishment complies with	121
division (C) of this section and sections 918.21 to 918.28 of the	122
Revised Code.	123
(C) An establishment that receives voluntary state inspection	124
under division (A) or (B) of this section shall pay the costs of	125
the inspection at a rate and under terms established by rule of	126
the director of agriculture in accordance with section 918.04 of	127
the Revised Code.	128
Sec. 943.01. As used in sections 943.01 to 943.18 of the	129
Revised Code:	130
(A) "Animals" or "livestock" means horses, mules, and other	131
equidae, cattle, sheep, and goats and other bovidae, swine and	132
other suidae, poultry, alpacas, and llamas.	133
(B) "Dealer" or "broker" means any person found by the	134
department of agriculture buying, receiving, selling,	135
slaughtering, with the exception of those persons designated by	136
division (B)(1) of section 918.10 of the Revised Code, exchanging,	137
negotiating, or soliciting the sale, resale, exchange, or transfer	138
of any animals in an amount of more than two hundred fifty head of	139
cattle, horses, or other equidae or five hundred head of sheep,	140

goats, or other bovidae, swine and other suidae, poultry, alpacas,

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or llamas during any one year. "Dealer" or "broker" does not mean	142
any of the following:	143
(1) Any railroad or other carrier transporting animals either	144
interstate or intrastate;	145
(2) Any person who by dispersal sale is permanently	146
discontinuing the business of farming, dairying, breeding,	147
raising, or feeding animals;	148
(3) Any person who sells livestock that has been raised from	149
birth on the premises of the person;	150
(4) Any person who buys or receives animals for grazing or	151
feeding purposes at a premises owned or controlled by the person	152
and sells or disposes of the animals after the minimum grazing or	153
feeding period of thirty days;	154
(5) Any person who places livestock in facilities other than	155
the person's own pursuant to a written agreement for feeding or	156
finishing, provided that the person retains legal and equitable	157
title to the livestock during the term of the agreement.	158
The exemptions set forth in divisions (B)(1) to (5) of this	159
section are exclusive of those activities requiring licensure	160
under this chapter sections 943.01 to 943.18 of the Revised Code,	161
so that a person shall be deemed to be a dealer or broker or	162
subject to divisions (B)(1) to (5) of this section, but shall not	163
be, or be subject to, both. No person who is a licensed dealer or	164
broker and whose license is suspended shall have livestock or	165
animals exempted pursuant to divisions (B)(1) to (5) of this	166
section.	167
"Dealer" or "broker" does not include any person who has been	168
issued an agricultural deer propagating license under section	169
943.22 of the Revised Code or an agricultural deer hunting	170
preserve license under section 943.24 of the Revised Code.	171
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(C) "Employee" means any person employed by a dealer or	173
broker to act in the dealer's or broker's behalf to buy, sell,	174
exchange, negotiate, or solicit sale or resale of animals in the	175
dealer's or broker's name.	176
(D) "Small dealer" means any person found by the department	177
buying, receiving, selling, slaughtering, with the exception of	178
those persons designated by division (B)(1) of section 918.10 of	179
the Revised Code, exchanging, negotiating, or soliciting the sale,	180
resale, exchange, or transfer of any animals in an amount of two	181
hundred fifty head or less of cattle, horses, or other equidae or	182
five hundred head or less of sheep, goats, or other bovidae, swine	183
or other suidae, poultry, alpacas, or llamas during any one year.	184
Sec. 943.20. As used in this section and sections 943.21 to	185
943.30 of the Revised Code:	186
(A) "Agricultural deer" means captive deer that have been	187
legally acquired or their offspring and that are privately owned	188
primarily for the purposes of agriculture, propagation, or the	189
operation of a hunting preserve.	190
(B) "Authorized enclosure" means an area of land that is	191
surrounded by a fence that complies with division (A) of section	192
943.23 of the Revised Code.	193
(C) "Chronic wasting disease" has the same meaning as in 9	194
C.F.R. 55.1.	195
(D) "Hunting preserve" means an area of land where	196
agricultural deer are released and hunted as authorized by an	197
agricultural deer hunting preserve license obtained under section	198
943.24 of the Revised Code.	199
(E) "Rule" means a rule adopted under section 943.26 of the	200
Revised Code.	201

Sec. 943.21. The department of agriculture, in cooperation	202
with the department of natural resources, has authority to	203
regulate agricultural deer.	204
Sec. 943.22. (A) Except as otherwise provided by rules, a	205
person desiring to engage in the business of propagating and	206
selling agricultural deer in an authorized enclosure that is owned	207
or leased by the person shall apply in writing to the director of	208
agriculture for a license to do so.	209
(B)(1) The director may issue to the applicant an	210
agricultural deer propagating license if all of the following	211
<pre>conditions are satisfied:</pre>	212
(a) The application is made in good faith.	213
(b) The applicant complies with or, in the case of an	214
application for an initial license, has demonstrated to the	215
director's satisfaction that the applicant will comply with	216
section 943.23 of the Revised Code.	217
(c) The applicant pays a license fee of three hundred	218
dollars.	219
(2) An agricultural deer propagating licensee may do all of	220
the following:	221
(a) Propagate agricultural deer in an authorized enclosure	222
that is specified in the license application;	223
(b) Sell agricultural deer and ship them alive within and	224
outside the state at any time;	225
(c) In the case of the licensee and the licensee's employees,	226
kill agricultural deer and sell the carcasses for food in	227
accordance with sections 918.01 to 918.12 of the Revised Code.	228
The director, in consultation with the director of natural	229
resources, may establish terms and conditions of a license.	230

(C) A license issued under this section expires on the	231
fifteenth day of March of each year. A licensee wishing to	232
continue to propagate and sell agricultural deer shall apply for a	233
new license under this section and shall include with the	234
application the information that is required by division (G)(1) of	235
section 943.23 of the Revised Code.	236
(D) All money collected under this section shall be credited	237
to the agricultural deer fund created in section 943.30 of the	238
Revised Code.	239
Sec. 943.23. (A) An agricultural deer propagating licensee	240
shall keep agricultural deer in an authorized enclosure that is	241
surrounded by a fence that is eight feet in height with a minimal	242
deviation not to exceed four per cent, is constructed in a manner	243
that prevents ingress and egress of deer, and is constructed of	244
materials that are approved by the director of agriculture in	245
rules.	246
A person who is raising and selling agricultural deer on the	247
effective date of this section shall comply with the fence	248
requirements established in this division not later than one year	249
after the director has adopted rules under division (A) of section	250
943.26 of the Revised Code.	251
(B) An agricultural deer propagating licensee only shall	252
purchase or acquire agricultural deer from, or sell or otherwise	253
transfer agricultural deer to, another such licensee or from a	254
herd that is monitored by the United States department of	255
agriculture for chronic wasting disease or any other animal	256
disease.	257
(C) Each agricultural deer that is raised by a licensee and	258
held in an authorized enclosure that is owned or leased by the	259
licensee shall be identified with a tag that has a symbol	260
identifying the licensee and a distinctive number for that deer	261

(D) If an agricultural deer escapes or is missing from an	262
authorized enclosure that is owned or leased by a licensee, the	263
licensee shall notify by telephone the director and a wildlife	264
officer designated under section 1531.13 of the Revised Code for	265
the county in which the enclosure is located within twenty-four	266
hours after the licensee determines that the agricultural deer has	267
escaped or is missing.	268
(E) A licensee shall submit animal tissue from ten per cent	269
of all of the licensee's agricultural deer that are twelve months	270
of age or older and that have died or thirty such deer, whichever	271
is less, to the animal disease diagnostic laboratory in the	272
department of agriculture for chronic wasting disease testing. The	273
director shall send the results of the testing to the licensee. If	274
the results of the testing indicate that an agricultural deer had	275
chronic wasting disease, the director shall take appropriate	276
actions as provided in sections 941.01 to 941.15 of the Revised	277
Code.	278
(F) A licensee shall dispose of the body of an agricultural	279
deer that dies of a dangerously contagious or infectious disease,	280
as defined in section 941.01 of the Revised Code, in accordance	281
with section 941.14 of the Revised Code.	282
(G)(1) A licensee shall file with a license renewal	283
application, on a form provided by the director, a complete and	284
accurate report signed by the licensee showing the total number of	285
agricultural deer that have been held by the licensee in the	286
previous twelve months. If the licensee fails to file the	287
inventory report with the renewal application, the director shall	288
not renew the license. In addition, a licensee shall file a	289
duplicate copy of the report with the chief of the division of	290
wildlife in the department of natural resources.	291
(2) A licensee shall maintain and keep all of the following	292
on the premises of the licensee:	293

(a) Records of all agricultural deer that are held, purchased	294
or otherwise acquired, sold or otherwise transferred, or killed in	295
an authorized enclosure that is owned or leased by the licensee.	296
The records shall include the distinctive number that is assigned	297
to each agricultural deer as required in division (C) of this	298
section.	299
(b) The name and address of a recipient or consignee of any	300
agricultural deer that is raised by the licensee and the date on	301
which the person received or was consigned the agricultural deer;	302
(c) Records that verify that each agricultural deer that is	303
raised and sold by the licensee was purchased or otherwise	304
acquired from another agricultural deer propagating licensee or	305
from a herd that is monitored by the United States department of	306
agriculture for chronic wasting disease or any other animal	307
<u>disease;</u>	308
(d) Herd and individual animal health certificates, including	309
certificates of veterinary inspection, and the results of any	310
tests performed under division (E) of this section.	311
(H) No agricultural deer propagating licensee shall fail to	312
comply with this section.	313
Sec. 943.24. (A) Except as otherwise provided by rules, no	314
person shall hunt or offer for hunting any agricultural deer	315
except in a licensed agricultural deer hunting preserve. No person	316
shall own or operate an agricultural deer hunting preserve without	317
first obtaining a license to do so issued by the director of	318
agriculture under this section.	319
(B) Application for an agricultural deer hunting preserve	320
license shall be made on a form prescribed by the director and	321
shall be accompanied by an annual license fee of three hundred	322
dollars. The application shall contain a description of the lands	323

Sec. 943.25. (A) An agricultural deer hunting preserve that

is licensed under section 943.24 of the Revised Code shall be not

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less than eighty acres in area. A hunting preserve shall be	354
located in one continuous block of land, except that the block of	355
land may be intersected by highways or roads if the hunting	356
preserve was in operation prior to the effective date of this	357
section.	358
(B) Except for a hunting preserve that was in operation prior	359
to the effective date of this section, an agricultural deer	360
hunting preserve licensee shall maintain or keep agricultural deer	361
in an authorized enclosure.	362
The owner or lessee of a hunting preserve that was in	363
operation prior to the effective date of this section and that	364
wishes to operate in accordance with a license issued under	365
section 943.24 of the Revised Code shall comply with the fence	366
requirements established for authorized enclosures not later than	367
one year after the director has adopted rules under division (A)	368
of section 943.26 of the Revised Code.	369
(C) A licensee only shall release and allow to be hunted	370
within the confines of the licensee's agricultural deer hunting	371
preserve either or both of the following:	372
(1) Deer that have been propagated by a person who holds an	373
agricultural deer propagating license issued under section 943.22	374
of the Revised Code;	375
(2) Deer that have been purchased from a herd that is	376
monitored by the United States department of agriculture for	377
chronic wasting disease or any other animal disease or that has	378
had animal tissue from ten per cent of all of the herd's	379
agricultural deer that are twelve months of age or older and that	380
have died or thirty such deer, whichever is less, submitted to the	381
animal disease diagnostic laboratory in the department of	382
agriculture for chronic wasting disease, provided that the	383
agricultural deer have been found not to have chronic wasting	384

construct fences for authorized enclosures for the purposes of	415
sections 943.23 and 943.25 of the Revised Code. In adopting the	416
rules, the director shall consult with the animal and plant health	417
inspection service in the United States department of agriculture,	418
the chief of the division of wildlife in the department of natural	419
resources, and representatives of the Ohio cervid industry.	420
(B) Establish information that must be included in an	421
application for a license to own or operate an agricultural deer	422
hunting preserve. The director shall consult with the chief in	423
adopting rules under this division.	424
(C) After consultation with the director of natural	425
resources, establish the amount of civil penalties that may be	426
assessed by the director of agriculture under division (B) of	427
section 943.29 of the Revised Code for violation of section	428
943.22, 943.23, 943.24, 943.25, or 943.27 of the Revised Code;	429
(D) Any other requirements and procedures that are necessary	430
to administer and enforce sections 943.20 to 943.30 of the Revised	431
Code.	432
Sec. 943.27. No person shall do either of the following:	433
(A) Take a white-tailed deer from the wild into an authorized	434
enclosure that houses agricultural deer;	435
(B) Knowingly release or knowingly fail to prevent the escape	436
of agricultural deer from an authorized enclosure or other holding	437
area that is owned or leased by an agricultural deer propagating	438
licensee or an agricultural deer hunting preserve licensee.	439
Sec. 943.28. (A) The director of agriculture or the	440
director's authorized representative, after reasonable notice to	441
the chief of the division of wildlife in the department of natural	442
resources, may enter at reasonable times on the premises of	443
agricultural deer propagating licensees and agricultural deer	444

hunting preserve licensees to conduct investigations and	445
inspections or to otherwise execute duties that are necessary for	446
the administration and enforcement of sections 943.20 to 943.30 of	447
the Revised Code. Upon request of the director of natural	448
resources or the chief, the director of agriculture may invite the	449
director of natural resources or the director's authorized	450
representative to participate in an entry on the premises. If	451
refused entry, the director of agriculture or the director's	452
authorized representative may apply for and the court of common	453
pleas having jurisdiction may issue an appropriate warrant. With	454
regard to agricultural deer propagating licensees, the director or	455
the director's authorized representative may examine and copy at	456
reasonable times any records that are required to be kept and	457
maintained by section 943.23 of the Revised Code. The director	458
shall provide copies of those records to the chief upon request.	459
(B) The chief may request the director of agriculture to	460
conduct an inspection of the premises of an agricultural deer	461
propagating licensee or agricultural deer hunting preserve	462
licensee. The director shall comply with such a request.	463
Sec. 943.29. (A) The director of agriculture, in consultation	464
with the director of natural resources, may propose to require	465
corrective actions and assess a civil penalty against an	466
agricultural deer propagating licensee or an agricultural deer	467
hunting preserve licensee if the director of agriculture or the	468
director's authorized representative determines that the licensee	469
is not in compliance with section 943.22, 943.23, 943.24, 943.25,	470
or 943.27 of the Revised Code, as applicable, the terms and	471
conditions of the agricultural deer propagating license or	472
agricultural deer hunting preserve license, as applicable, or	473
rules. However, the director may assess a civil penalty only if	474
all of the following occur:	475

(1) The director has notified the director of natural	476
resources that the director of agriculture intends to assess a	477
civil penalty against the licensee.	478
(2) The licensee is notified in writing of the deficiencies	479
resulting in noncompliance, the actions that the licensee must	480
take to correct the deficiencies, and the time period within which	481
the licensee must correct the deficiencies and attain compliance.	482
(3) After the time period that is specified in the notice has	483
elapsed, the director of agriculture or the director's authorized	484
representative has inspected the authorized enclosure that is	485
owned or leased by the licensee, determined that the licensee is	486
still not in compliance, and issued a notice of an adjudication	487
hearing.	488
(4) The director affords the licensee an opportunity for an	489
adjudication hearing under Chapter 119. of the Revised Code	490
regarding the director's determination that the licensee is not in	491
compliance or the assessment of the civil penalty, or both.	492
However, the licensee may waive the right to an adjudication	493
hearing.	494
(B) If the opportunity for an adjudication hearing is waived	495
or if, after an adjudication hearing, the director determines that	496
a violation has occurred or is occurring, the director may issue	497
an order requiring compliance and assess a civil penalty. The	498
order and the assessment of the civil penalty may be appealed in	499
accordance with section 119.12 of the Revised Code.	500
A civil penalty assessed under this section shall be in an	501
amount established in rules. Each thirty-day period during which a	502
violation continues constitutes a separate violation, except that	503
for a violation of section 943.22, 943.23, 943.24, 943.25, or	504
943.27 of the Revised Code, each seven-day period during which a	505
violation continues constitutes a separate violation.	506

(C) If after the assessment of a civil penalty under division	507
(B) of this section a licensee continues to be in violation of	508
section 943.22, 943.23, 943.24, 943.25, or 943.27 of the Revised	509
Code, the terms and conditions of a license, or rules, the	510
director may conduct an adjudication hearing under Chapter 119. of	511
the Revised Code to suspend or revoke the licensee's license.	512
(D) All money collected under this section shall be credited	513
to the agricultural deer fund created in section 943.30 of the	514
Revised Code.	515
Sec. 943.30. The agricultural deer fund is hereby created in	516
the state treasury. The fund shall consist of money credited to it	517
under sections 943.20 to 943.30 of the Revised Code. The director	518
of agriculture shall use money in the fund to administer those	519
sections.	520
Section 2. That existing sections 901.511, 918.12, and 943.01	521
of the Revised Code are hereby repealed.	522