

OFFICE OF THE ATTORNEY GENERAL OF OKLAHOMA

**Question Submitted by: The Honorable Scott Fetgatter, Oklahoma
House of Representatives, District 16**

2026 OK AG 3 · Decided March 5, 2026

OPINION

PER CURIAM.

OSCN Found Document: Question Submitted by: The Honorable Scott Fetgatter, Oklahoma House of Representatives, District 16 Question Submitted by: The Honorable Scott Fetgatter, Oklahoma House of Representatives, District 16 2026 OK AG 3 Decided: 03/05/2026 OKLAHOMA ATTORNEY GENERAL OPINIONS Cite as: 2026 OK AG 3, __ P.3d __ ¶0 This office has received your request for an official Attorney General Opinion in which you ask the following question: What limitations, if any, apply to the release of white-tailed deer bred as part of the pilot program established by the Chronic Wasting Disease Genetic Improvement Act,?

I. SUMMARY ¶1 White-tailed deer bred pursuant to the Chronic Wasting Disease Genetic Improvement Act ("CWD Act") pilot program may be released only by farmed cervid producers properly licensed and registered with the Oklahoma Department of Agriculture, Food, and Forestry ("ODAFF"). Additionally, the deer must be born and raised in Oklahoma, be appropriately tagged, and meet genetic and age benchmarks established under the CWD Act by ODAFF.

Eligible deer may be released only between February 1 and April 15 each year onto private land where the landowner has paid any permit fee required under the CWD Act. II. BACKGROUND ¶2 Chronic Wasting Disease ("CWD") is a fatal neurodegenerative disorder affecting the cervid family-- e.g., deer, elk, and moose--characterized by, among other things, weight loss, listlessness, stumbling or uncoordinated movement, and behavioral changes.

See Ctrs. for Disease Control and Prevention, Chronic Wasting Disease in Animals (Jan. 21, 2026), <https://www.cdc.gov/chronic-wasting/animals/index.html> (hereinafter, "CDC -- Chronic Wasting Disease "). CWD is caused by misfolded prion proteins that accumulate in the central nervous system and lead to brain damage. See Stacie J. Robinson et al., The role of genetics in chronic wasting disease of North American cervids, 6 PRION 2 (2012) at 154. ¶3 CWD is highly transmissible, infecting healthy animals through direct or indirect contact with prions shed through an infected animal's saliva, blood, urine, or feces.

See CDC -- Chronic Wasting Disease. Once inside the new host, the prion induces the healthy animal's normal proteins to adopt the same misfolded shape. See USDA -- CWD Specifics.

However, an animal may be infected months or years before exhibiting any symptoms. See CDC - Chronic Wasting Disease.

As of August 2025, CWD had been found in at least 36 states, including Oklahoma. *Id.* CWD affects both wild and farmed cervid herds but it is believed to spread more readily among farmed herds given the animals' proximity to one another. See Jameson Mori et al., A review of chronic wasting disease (CWD) spread, surveillance, and control in the United States captive cervid industry, 18 PRION 1 (2024) at 54--55. ¶4 Federal and state agencies have engaged in efforts to control CWD for years.

For example, the U.S. Department of Agriculture ("USDA") created a herd certification program as a voluntary state--federal initiative whereby owners of farmed cervid herds who satisfy certain surveillance and testing standards are permitted to transport their animals more freely between states. See 9 C.F.R. §§ 55.21 --55.25; see also 16 U.S.C. § 667i. ODAFF has adopted standards to facilitate Oklahomans' participation in the program.

See OKLA. ADMIN. CODE § 35:15-47. Detecting CWD in a certified herd triggers strict quarantine and depopulation measures, up to and including euthanizing the entire herd. See USDA Chronic Wasting Disease (CWD) Program Standards, Part B at 40--44 (May 2019), <https://www.aphis.usda.gov/sites/default/files/cwd-program-standards.pdf>; OKLA. ADMIN. CODE § 35:15-47-11. ¶5 Given the dire consequences of finding CWD within a herd, researchers have explored possibilities for reducing genetic susceptibility to CWD.

Specifically, research suggests that certain genotypes of white-tailed deer may be less susceptible to CWD or may experience slower disease progression. See, e.g., Seabury et al., Accurate Genomic Predictions for Chronic Wasting Disease in U.S. White-Tailed Deer, 10 G3: GENES GENOMES GENETICS 1433 (Apr. 2020). From the genetic sequences studied in tissue samples, the research identified variations (known as alleles) in codon 96 *Id.* at 1438.

See *id.* at 1436. The USDA utilizes GEBV scores in guidance for reducing CWD susceptibility at white-tailed deer farms. See U.S. Dept. of Agric., Genomically Estimated Breeding Value Predictive Genetics and Chronic Wasting Disease (Aug. 2024), <https://www.aphis.usda.gov/sites/default/files/genomically-estimated-breeding-value.pdf>. ¶6 Through the enactment of the CWD Act in 2024, the Legislature directed ODAFF to establish a pilot program ("Pilot Program") to test these findings in Oklahoma white-tailed deer.

See House Bill 3462, 2024 Okla. Sess. Laws ch. 271 (codified at 2 O.S.Supp.2024, § 6-520 (1) ODWC must collect DNA samples from specified testing locations around the state "to establish a baseline of average genetic codon markers and genomic breeding values for native, free ranging Oklahoma white-tailed deer;" (2) Participation in the Pilot Program is limited "to native white-tailed deer, born and raised in Oklahoma with genetic resistance breeding, including the SS allele

at codon 96, and that surpass the genomic estimated breeding value cutoff" established by ODAFF; and (3) Beginning in 2026, "bred female and male deer may be released" between February 1 and April 15. ¶7 2 O.S.Supp.2024, § 6-520 Id. § 6-520(D). ¶8 In 2025, ODAFF promulgated rules implementing the CWD Act's requirements.

OKLA. ADMIN. CODE § 35:15-44-22. The rules also, among other things, (1) limit participation in the Pilot Program to ODAFF-licensed farmed cervid producers, Id. From February 1 through April 15, deer bred pursuant to the Pilot Program "may be released onto private land" of a landowner that has satisfied requirements of ODWC regulations promulgated under the CWD Act.

Id. § 35:15-44-22(d). To date, however, ODWC has not promulgated rules setting forth the criteria for landowners who wish to have Pilot Program deer released on their property. III. DISCUSSION ¶9 You have asked about limitations on the release of white-tailed deer bred as part of the Pilot Program.

The answer is straightforward based on the terms of the CWD Act and ODAFF rules. First, only white-tailed deer producers licensed under the OFCA and registered with ODAFF under the CWD Act may participate in, and release deer pursuant to, the Pilot Program. OKLA. ADMIN. CODE § 35:15-44-22(a), (b).

Second, any deer to be released must (i) meet the codon 96 and GEBV requirements established by the CWD Act and ODAFF, (ii) be born and raised in Oklahoma and appropriately tagged, and (iii) in the case of bucks, be less than 24 months old. 2 O.S.Supp.2024, § 6-520 OKLA. ADMIN. CODE § 35:15-44-22(d).

Third, eligible deer may be released only between February 1 and April 15 of each year. 2 O.S.Supp.2024, § 6-520 see also OKLA. ADMIN. CODE § 35:15-44-22(d)(2) (clarifying that this release period applies after 2026 as well). And fourth, deer released pursuant to the Pilot Program may be released only onto private land, and ODWC may charge the landowner a "one-time permit fee" of up to \$500 to purchase one or more deer in the Pilot Program.

2 O.S.Supp.2024, § 6-520 ¶10 Any confusion regarding limitations on releasing deer under the Pilot Program likely stems from the OFCA's restrictions on the transfer of farmed cervids more generally. For instance, the OFCA forbids any person from "intentionally commingl[ing] or integrat[ing] any farmed cervidae with native cervidae." 2 O.S.Supp.2023, § 6-507 ¶11 To the extent there is any confusion, however, it is misplaced.

The Legislature provided no indication that it intended the Pilot Program to be subject to OFCA restrictions. Indeed, the requirement that participants in the Pilot Program must be ODAFF-licensed farmed cervid producers came from ODAFF rules, not the Legislature.

Moreover, ODAFF had the opportunity through rulemaking to limit the recipients of deer bred under the Pilot Program to be consistent with its own OFCA rules, but it opted not to. Instead, it provided only that the recipients must be private landowners who satisfy any ODWC rules promulgated under the CWD Act (which ODWC has not done). See OKLA. ADMIN. CODE § 35:15-44-22(d). ¶12 In short, the Pilot Program authorized by the CWD Act should be viewed as a narrow exception to the OFCA and associated ODAFF rules.

This reading accords with the rule of statutory construction providing that a "more recent and specific statute will be determined to modify or super[s]ede an earlier, more general statute only to the extent necessary to avoid the irreconcilable conflict or inconsistency." *Duncan v. Okla. Dept. of Corr.*, 2004 OK 58 95 P.3d 1076 ¶13 It is, therefore, the official Opinion of the Attorney General that: White-tailed deer bred pursuant to the CWD Act pilot program may be released only by farmed cervid producers properly licensed by and registered with ODAFF.

Additionally, the deer must be born and raised in Oklahoma, be appropriately tagged, and meet genetic and age benchmarks established under the CWD Act by ODAFF. Eligible deer may be released only between February 1 and April 15 each year onto private land where the landowner has paid any permit fee required under the CWD Act. GENTNER DRUMMOND ATTORNEY GENERAL OF OKLAHOMA ETHAN SHANER DEPUTY GENERAL COUNSEL FOOTNOTES 1 Similar prion diseases include bovine spongiform encephalopathy (i.e., mad cow disease), scrapie in sheep and goats, and Creutzfeldt-Jakob disease in humans.

See U.S. Dept. of Agric., Chronic Wasting Disease Specifics (Jan. 13, 2026), <https://www.aphis.usda.gov/livestock-poultry-disease/cervid/chronic-wasting/cwd-specifics> (hereinafter, "USDA -- CWD Specifics "). See OKLA. ADMIN. CODE § 800:25-24-3(c). Codon, MERRIAM-WEBSTER.COM, <https://www.merriam-webster.com/dictionary/codon> (last visited Mar. 4, 2026). See Stacie J. Robinson et al., The role of genetics in chronic wasting disease of North American cervids, 6 PRION 2 (2012) at 157-58.

2 O.S.2021, §§ 6-501 Id. § 6-502(4). By contrast, privately owned commercial deer hunting operations are licensed and regulated by ODWC. Id. § 6-503(C); 29 O.S.2021, § 4-106 see, e.g., David Chasanov, Controversial Chronic Wasting Disease Bill Awaits Governor Stitt's Signature, KOKH FOX25, (May 2, 2024), <https://okcfox.com> (last visited Mar. 4, 2026), and more recently by the Oklahoma Wildlife Conservation Commission in response to proposed amendments to the CWD Act.

See Okla. Wildlife Conservation Comm'n, House Bill 3270 Release of Captive, Pen-Raised Deer into Oklahoma's Wild Deer Population (Mar. 2, 2026), <https://www.wildlifedepartment.com/sites/default/files/2026-03/Position%20Statement%20-%20HB3270.pdf>.

In the end, whether the Pilot Program is sound policy, in its current form or as amended in the future, is a determination for the Legislature and outside the scope of this Opinion.

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