

# High Fences: State-by-State Regulations Across the Southeast

By Jed DeZelle

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Like many people, my job, hobbies, and other activities often cause me to spend the greater part of a day in my truck. As a hunter I often find myself searching every pond, pasture, and woodlot for ducks, turkeys, deer, and other wildlife. As a biologist, I notice different habitat types, management practices, and the chronic spread of suburbia. Over the past several years, as I have navigated countless interstates, highways and county roads that dissect the South, I have noticed an increasing number of eight-foot, woven-wire property lines. Based on these observations, there is no doubt that in some parts of the country, the use of high fences to confine and manage deer herds are becoming more common.

Working as a wildlife consultant, I have the privilege of traveling and working with many different landowners across the Southeast. Some of these properties are high fenced. Perhaps this is the reason why I tend to notice high fences and spend time talk-

*High fences remain a controversial subject. To some, they are an expensive management tool used to improve the quality of their habitat and deer herd. To others, these fences are simply a means to privatize wildlife and promote canned hunting.*

ing and debating with others about them. On a recent trip from Alabama to Texas, I began noticing high fences along Interstate 20. I began to think about the states in which our company manages high-fenced properties and out of curiosity, that ultimately led me to begin researching high-fence regulations within each state throughout the Southeast.

Within the Southeast, regulations governing the use of high fences are as diverse as the states themselves. Acceptance of high fences among states and the general public is a controversial subject. For many landowners and wildlife managers, high fences are the ultimate management tool and a solution to their problems and/or frustrations. To others, they are an eye sore that restrict wildlife movement and a means for canned hunts. A recent survey conducted by the Quality Deer Management Association indicated 73% of QDMA members oppose, 20% remain neutral, and only 7% approve of the use of high fences to enclose native deer herds. Most state agencies are forced to find a balance between preserving landowner rights, reducing habitat loss, maintaining wildlife as a public resource, monitoring fair chase, and preventing disease outbreak. Although high fencing

remains controversial, the purpose of this article is not to provide arguments for or against high fences, but instead to outline regulations for high fences, provide insight to the number of fences and acres enclosed within individual states, and define state agency positions on high fence management.

### **In the Beginning**

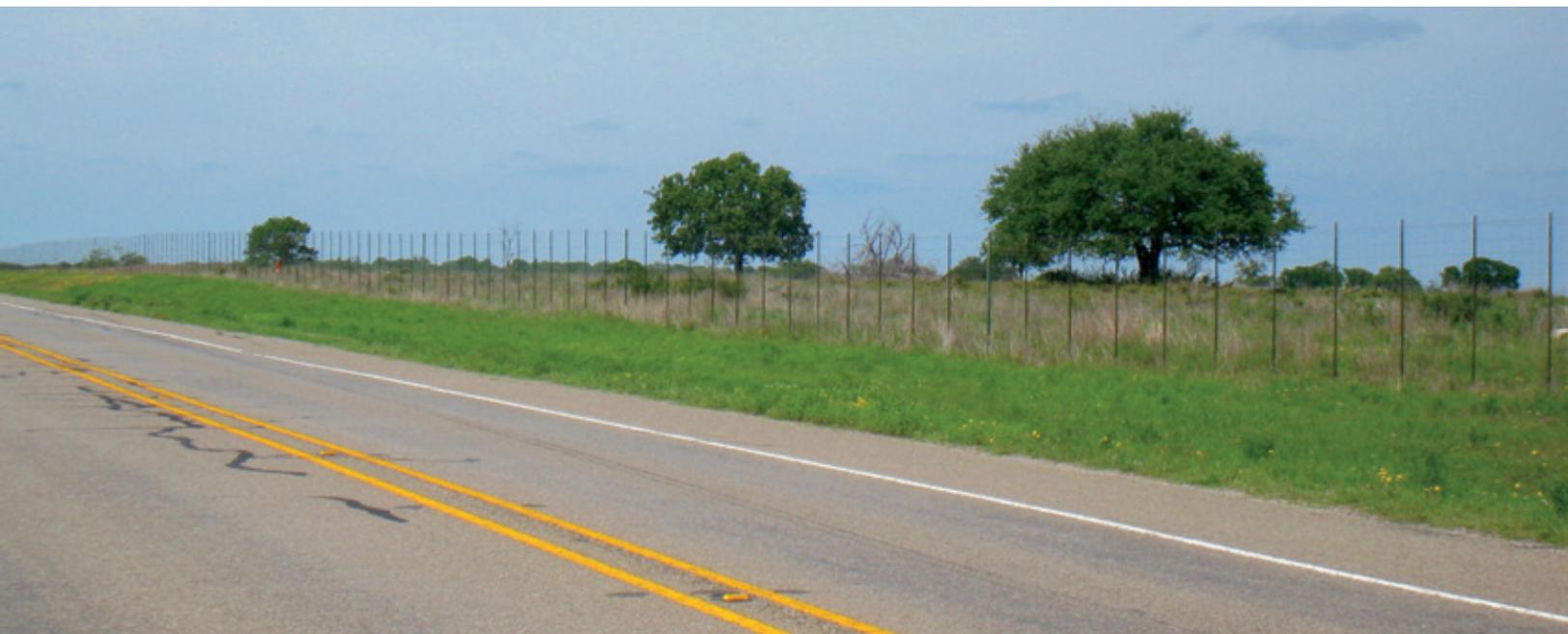
According to data collected by The Wildlife Society, high fences were first used to restrict ungulate movements in Texas in the 1930's (TWS 2002). Since then, high fences have become more common, occurring in 49 of 58 American states and Canadian provinces. High fences have been used for many different purposes. Not only are they used as a management tool for white-tailed deer, but also for exotic species, game breeding operations, research facilities, drive-through zoos, and even safety and security purposes. As a result, a variety of names have been developed to describe high fences including, hunting preserve, game ranch, shooting preserve, enclosure, pen, etc. Thus, it is sometimes difficult to interpret state agency regulations concerning high fences, simply because of the terminology used to describe the enclosure. For the purpose of this article,

I am referring to high fences used to enclose a property for the purpose of white-tailed deer management and hunting. Since some states have different regulations dependent upon the management practices within an enclosure, I have also provided regulations for "hunting preserves". Based on the definition of several Southeastern states, a "hunting preserve" can be an enclosure that is hunted commercially, or has been stocked with deer from an outside source. This article does not include any regulations for whitetail breeding facilities, commercial dealers, deer pens, or any enclosure used for other purposes, as these are a completely different topic. As a disclaimer, although I have made an attempt to research and understand the laws for each state described, it is important to check with your state wildlife agency and/or local law enforcement official for more specific information concerning high fence regulations.

### **State-Specific High Fence Regulations**

#### **Alabama**

The Alabama Division of Wildlife and Freshwater Fisheries does not have an official stance on high fence enclosures.



*Depending on what part of the country you live, long stretches of deer-proof fencing may become more common.*

Alabama does not have regulations governing high-fenced properties. There are no minimum acreage requirements or permits required to maintain a high fence. Hunters are required to follow all state hunting regulations related to seasons, weapons, and bag limits. According to 2007 surveys conducted by the law enforcement division, 104 high fence enclosures existed in the state of Alabama, encompassing 79,116 acres.

### **Arkansas**

The Arkansas Game and Fish Commission does not have an official stance on high fence enclosures. Arkansas regulations make it lawful for individuals to enclose their property with high fences for the purpose of deer management. There are no size restrictions and deer can only be hunted non-commercially in accordance with applicable private land hunting regulations. For commercially hunted enclosures, individuals must possess a Commercial Wildlife Hunting Resort permit and the

property must encompass a minimum of 500 contiguous acres. The fence must be a minimum of eight feet high and cannot be cross-fenced in a way that would reduce the size of the fence below 500 acres. Additionally, a minimum of 60% of the total acreage must be in “forest cover”, which is classified as timberland by the local county tax assessor. Currently, less than ten Commercial Wildlife Hunting Resorts exist in Arkansas and permits for new facilities are not issued.

### **Florida**

Any landowner in Florida can enclose their property with a high fence. Free-ranging deer captured within the fence can be managed like any other deer herd, including hunting. Deer enclosed within a high fence remain property of the state of Florida, therefore, hunters must comply with all state hunting regulations regarding methods of take, seasons, and bag limits. Under these circumstances, there are no minimum size

or fence requirements.

Any landowner wishing to hunt the property commercially or planning to release deer (released deer must be captive-raised) into the herd is required to obtain proper licensing. Licensed hunting preserves for deer must be a minimum of 200 acres, with a minimum of 100 acres in woody vegetation and posted every 500 feet. The preserve must be completely enclosed with an eight-foot deer-proof fence and cannot be located within one mile of any wildlife management area, refuge, or park.

### **Georgia**

Georgia laws do not allow an individual to confine native white-tailed deer. However, Georgia does not consider deer to be confined if the property is larger than 640 acres. Therefore, individuals are allowed to high fence their property for the purpose of deer management and hunting, as long as the property is a minimum of 640 acres. Within high-fenced properties, deer are

## \*Current High Fence Regulations in the Southeast (with regard to white-tailed deer)

State	Legal	Minimum Size	Restrictions	Permit Required
Alabama	Yes	No	No	No
Arkansas	Yes	No**	No**	No**
Florida	Yes	No**	No**	No**
Georgia	Yes	640	Yes	No
Kentucky	No	N/A	N/A	N/A
Louisiana	Yes	No**	No**	No
Mississippi	Yes	300	Yes	Yes
North Carolina	Yes	No	No	No
South Carolina	No	N/A	N/A	N/A
Tennessee	No	N/A	N/A	N/A
Texas	Yes	No	No	No
Virginia	No	N/A	N/A	N/A
West Virginia	No	N/A	N/A	N/A

\* Information provided is for current high fence regulations. It is important to understand that high fences managed for deer exist in all states listed, but were established prior to current laws and were grandfathered in. Also, terminology used to describe enclosures may vary among states and regulations would apply accordingly.

\*\* Regulations different for enclosures classified as hunting preserves.

considered state property and normal hunting regulations must be followed. Properties less than 640 acres must be permitted and are only approved for exhibition/education purposes and cannot be hunted. The Georgia Department of Natural Resources is in the process of locating high fence enclosures and considers the number of enclosures to be increasing significantly.

### **Kentucky**

Regulations in Kentucky make it illegal to erect a fence that prevents the ingress/egress (movement) of native white-tailed deer. This inhibits anyone from enclosing a property with a high fence for the purpose of deer management, security, or any other purpose. Currently, four high-fenced properties exist in Kentucky, which were grandfathered to allow deer hunting. Although other high fences exist in Kentucky, these enclosures are classified as captive cervid facilities. These facilities contain only captive born and raised white-tailed deer/elk and are not managed

by the Kentucky Department of Fish and Wildlife Resources but rather by the Kentucky Department of Agriculture.

### **Louisiana**

As a response to the chronic wasting disease issue, the Louisiana Department of Wildlife and Fisheries does not officially approve of high fences. Louisiana currently does not have regulations pertaining to high-fenced enclosures. Any individual may erect a fence around their property as long as all state hunting regulations are followed. The Department of Agriculture will issue a permit if the landowner desires to stock their high-fenced property with deer from another location. However, if native deer are present, no animal can be taken out of the fenced area unless it is dead. The estimated number of existing high-fence enclosures in Louisiana is 300, encompassing 29,573 acres.

### **Mississippi**

Mississippi is probably the latest state

to implement regulations for high fences. The Commission on Wildlife, Fisheries, and Parks adopted new regulations in November 2007 which became effective in July 2008. Any person owning a high-fenced property is required to obtain an annual Facility Permit. The cost of this permit is \$300 per year for any enclosure up to 300 acres. For any enclosure larger than 300 acres, the cost of the permit is \$1 per acre. Any property fenced after November 2007 must be a minimum of 300 contiguous acres and at least 50% of the total enclosed area must contain suitable habitat for white-tailed deer and must not be susceptible to flooding under normal conditions.

In addition to a permit, all high-fenced enclosures in Mississippi must be enrolled in the Enclosure Management Assistance Program. Under this program, the owner is required to work with an approved wildlife biologist from the Mississippi Department of Wildlife, Fisheries, and

# BECAUSE THE SEASON NEVER ENDS



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Parks (MDWFP) to manage the deer herd within the enclosure and submit an annual management plan by May 1. Owners/operators are also required to consent to periodic inspections by the MDWFP, with a minimum of one visit annually. Any deer exhibiting clinical symptoms of chronic wasting disease must be tested and deer are not allowed to be transported from the wild into an enclosure. Finally, any enclosure less than 10 acres, registered before November 2007, are required to turn over any offspring produced to the MDWFP within five days.

### **North Carolina**

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The North Carolina Natural Resources Commission (NCNRC) has very strict regulations for existing captive cervid facilities and a very strong stance against commercial high fenced enclosures. The agency also has a strong stance that wildlife resources are held in the public trust and any animal native to North Carolina held in captivity is not privately owned. There are no laws that prevent a landowner in North Carolina from high fencing their property. Deer enclosed within the property during construction of the fence can be managed and hunted in the same manner as a free-ranging deer herd. Therefore, all state hunting regulations apply within the enclosure. Landowners cannot, however, in any manner attempt to attract or import deer during or upon completing construction of the fence. Any attempt to do so is considered an attempt to capture those animals for possession, which requires a captivity license. Based on captivity regulations, no deer held in captivity can be hunted. The NCNRC encourages landowners to keep fence heights below four feet or leave sections of the fence open so as not to prevent movement of deer or other wildlife.

### **South Carolina**

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The South Carolina Department of Natural Resources does not officially support high fence enclosures. In 2000, the legislature passed a moratorium on

the construction of high fence enclosures for the purpose of hunting. Under these laws, a high fence is defined as being taller than six feet high. Landowners are still allowed to construct a fence higher than six feet, but deer hunting is not allowed in the enclosure. As part of the law, 28 high fence enclosures that existed prior to legislation were “grandfathered” in to allow hunting. Additionally, registered enclosures less than 700 acres are allowed a one-time expansion up to 15% of the registered acreage. For properties greater than 700 acres, landowners are allowed to enlarge the enclosure up to an additional 400 acres. The total acreage enclosed in South Carolina is 14,445 acres.

### **Tennessee**

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Laws in Tennessee have prevented any person from possessing white-tailed deer since 1948. This prevents any landowner from high fencing their property for the purpose of containing deer. Landowners are, however, allowed to high fence their property for the purpose of security. If in the process of enclosing the property for security purposes, deer are captured within the high fence, the landowner is allowed to manage the deer herd under normal practices, including hunting. All hunting must be in accordance with statewide regulations and license/permit requirements. Although Tennessee does issue permits for hunting preserves, wildlife indigenous to Tennessee, including white-tailed deer, may not be held, released, or hunted under these permits. According to the Tennessee Wildlife Resources Agency, the number of high fences erected for security purposes is increasing, but strict captivity regulations strongly discourage any landowner from erecting the fence with deer management as the primary purpose.

### **Texas**

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As previously mentioned, high fencing got its roots in Texas. Currently, no

regulations or statute limits concerning the height or size of fences exist in Texas. In 2002, an estimated 1,000 high-fenced properties existed in Texas, encompassing nearly 4 million acres (TWS 2002). The Texas Parks and Wildlife Department does not have an official stance on high fences. TPWD is concerned more about management practices inside or outside of a fence, but believes that high fences can provide responsible landowners an opportunity to be better stewards of the land.

### **Virginia**

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According to Virginia wildlife personnel, it is illegal to erect a fence that prevents or impedes the free movement of deer from the enclosed area with the intent to confine deer. It is also illegal to hunt deer within any enclosure. Attributes that have been defined as impeding the free movement of deer include a fence height greater than five feet, or a combination of a fence and any topographic or physical barrier which would prevent free movement of deer. The only exception is high-fenced enclosures registered before August 2001. These properties are required to annually register with the Virginia Department of Game and Inland Fisheries (VDGIF). In addition to registration requirements, these facilities are required to operate using acceptable hunting and wildlife management practices as determined by the Director. All state and local hunting laws and regulations must be followed, and hunting with dogs, man-drives, or over bait within enclosures are prohibited. Any known non-hunting mortality that occurs within an enclosure must be reported to the VDGIF within 48 hours in order to be tested for diseases. Additional hunter-killed samples are also requested for CWD testing. Any high-fenced enclosure is required to allow inspection of facilities and records upon request by the VDGIF at any reasonable time. Only four registered high-fenced enclosures exist in

Virginia, encompassing 1,700 acres. Although the VDGIF will continue to work with existing high-fenced properties, they oppose the establishment of new enclosures.

### **West Virginia**

The West Virginia Division of Natural Resources does not support high fences. Laws in West Virginia make it illegal to prevent the movement of white-tailed deer. This inhibits landowners from high-fencing their property. There are four existing high-fenced,

hunting preserves in West Virginia, which encompass 1,925 acres.

Regardless of where you stand, high fences for deer management have become more common and regulations concerning these enclosures vary greatly across the Southeast. Based on the latest trends and concerns about diseases, it is likely that state agencies will receive more pressure from the public to more intensively regulate high fences. Although it is difficult to predict the future of high fences, it is certain that

they will continue to remain a topic of conversation and a dividing line among wildlife managers, hunters, and the non-hunting public. In the meantime, high fences (where legal) will continue to be used as a management tool and if you find yourself traveling across the Southeast, you may catch yourself noticing them more often.

### **Literature Cited**

*The Wildlife Society. 2002. Biological and social issues related to confined wild ungulates. The Wildlife Society Technical Review 02-03, 29pp.*



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