

By: Wentworth

S.B. No. 1710

A BILL TO BE ENTITLED

AN ACT

relating to prohibition of commercial finfishing, crabbing, and
shrimping in certain Texas bays and related waters.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. PROHIBITION ON COMMERCIAL FINFISHING, CRABBING, AND

SHRIMPING IN TEXAS BAYS AND RELATED WATERS

SECTION 1.01. Subchapter A, Chapter 47, Parks and Wildlife
Code, is amended by adding Section 47.005 to read as follows:

Sec. 47.005. COMMERCIAL FINFISH FISHING IN TIDAL WATERS
PROHIBITED. A commercial finfish fisherman may not catch finfish in
the tidal waters of this state.

SECTION 1.02. Subchapter A, Chapter 77, Parks and Wildlife
Code, is amended by adding Section 77.006 to read as follows:

Sec. 77.006. SHRIMPING IN INSIDE WATER PROHIBITED. (a) A
person may not catch or assist in catching shrimp or other edible
aquatic products from the inside water of this state for pay or for
the purpose of sale, barter, or exchange.

(b) This section does not apply to a person who operates a
commercial bait shrimp boat that is licensed under this chapter.

SECTION 1.03. Subchapter B, Chapter 78, Parks and Wildlife
Code, is amended by adding Section 78.1025 to read as follows:

Sec. 78.1025. CRABBING IN INSIDE WATER PROHIBITED. (a) In
this section, "inside water" has the meaning assigned by Section
77.001.

1 (b) A person may not engage in commercial crab fishing in
2 the inside water of this state.

3 ARTICLE 2. CONFORMING AMENDMENTS; REPEALER

4 SECTION 2.01. Section 11.032(b), Parks and Wildlife Code, is
5 amended to read as follows:

6 (b) The department shall deposit to the credit of the game,
7 fish, and water safety account all revenue, less allowable costs,
8 from the following sources:

9 (1) all types of fishing licenses and stamps and
10 shrimping licenses [~~except as provided by Section 77.120~~];

11 (2) all types of hunting licenses and stamps;

12 (3) trapping licenses and other licenses relating to
13 the taking, propagation, and sale of fur-bearing animals or their
14 pelts;

15 (4) sale of marl, sand, gravel, shell, and mudshell;

16 (5) oyster bed rentals and permits;

17 (6) federal funds received for fish and wildlife
18 research, management, development and conservation, resource
19 protection, and law enforcement, unless the funds are received for
20 the specific purposes of Subchapter F, Chapter 77;

21 (7) sale of property, less advertising costs,
22 purchased from this account or a special fund or account that is now
23 part of this account;

24 (8) fines and penalties collected for violations of a
25 law pertaining to the protection and conservation of wild birds,
26 wild fowl, wild animals, fish, shrimp, oysters, game birds and
27 animals, fur-bearing animals, alligators, and any other wildlife

1 resources of this state;

2 (9) sale of rough fish by the department;

3 (10) fees for importation permits;

4 (11) fees from supplying fish for or placing fish in
5 water located on private property;

6 (12) sale of seized pelts;

7 (13) sale or lease of grazing rights to and the
8 products from game preserves, sanctuaries, and management areas;

9 (14) contracts for the removal of fur-bearing animals
10 and reptiles from wildlife management areas;

11 (15) motorboat registration fees;

12 (16) motorboat manufacturer or dealer registration
13 fee;

14 (17) fines or penalties imposed by a court for
15 violation of water safety laws contained in Chapter 31 of this code;

16 (18) alligator hunter's or alligator buyer's licenses;

17 (19) sale of alligators or any part of an alligator by
18 the department;

19 (20) fees and revenue collected under Section
20 11.027(b) or (c) of this code that are associated with the
21 conservation of fish and wildlife; and

22 (21) any other source provided by law.

23 SECTION 2.02. Section 77.112, Parks and Wildlife Code, is
24 amended to read as follows:

25 Sec. 77.112. ISSUANCE AND RENEWAL OF COMMERCIAL [~~BAY AND~~]
26 BAIT SHRIMP BOAT LICENSES. (a) After August 31, 1995, the
27 department may not issue a new commercial [~~bay or~~] bait shrimp boat

1 license unless the person seeking to obtain the license documents
2 to the satisfaction of the department that the vessel for which the
3 license is sought:

4 (1) is owned by the person;

5 (2) was under construction and at least 50 percent
6 completed on April 1, 1995; and

7 (3) is intended to be licensed and used as a commercial
8 ~~[bay or]~~ bait shrimp boat.

9 (b) For the license year ending August 31, 1996, the
10 department may renew a commercial ~~[bay or]~~ bait shrimp boat license
11 only if the person seeking renewal of the license:

12 (1) owns the commercial ~~[bay or]~~ bait shrimp boat for
13 which the license renewal is sought; and

14 (2) held the license to be renewed on April 1, 1995,
15 or, after that date, obtained the license to be renewed by a
16 transfer authorized by Section 77.113.

17 (c) After August 31, 1996, the commission may renew a
18 commercial ~~[bay or]~~ bait shrimp boat license only if the person
19 seeking to renew the license:

20 (1) owns the commercial ~~[bay or]~~ bait shrimp boat for
21 which the license renewal is sought; and

22 (2) held the license to be renewed during the
23 preceding license year.

24 (d) An applicant for a new or renewed commercial ~~[bay or]~~
25 bait shrimp boat license for a vessel that is required by United
26 States Coast Guard rules to be documented by the United States Coast
27 Guard must submit to the department with the license application

1 the United States Coast Guard certificate of documentation for the
2 vessel.

3 SECTION 2.03. Section 77.113, Parks and Wildlife Code, is
4 amended to read as follows:

5 Sec. 77.113. LICENSE TRANSFER. (a) Except as provided by
6 this section, a commercial [~~bay or~~] bait shrimp boat license may not
7 be transferred from one person to another before September 1, 1999.

8 (b) A commercial [~~bay or~~] bait shrimp boat license may be
9 transferred at any time, by sale or otherwise:

10 (1) between holders of a commercial [~~bay or~~] bait
11 shrimp boat license;

12 (2) between a holder of a commercial [~~bay or~~] bait
13 shrimp boat license and a historical shrimp boat captain as defined
14 by the shrimp license management review board and approved by the
15 executive director; or

16 (3) to an heir or devisee of the deceased holder of the
17 commercial [~~bay or~~] bait shrimp boat license, but only if the heir
18 or devisee is a person who in the absence of a will would be entitled
19 to all or a portion of the deceased's property.

20 SECTION 2.04. Section 77.114, Parks and Wildlife Code, is
21 amended to read as follows:

22 Sec. 77.114. LIMIT ON NUMBER OF LICENSES HELD; DESIGNATED
23 LICENSE HOLDER. (a) Except as provided by Subsection (b), no
24 person may hold or directly or indirectly control more than [~~four~~
25 ~~commercial bay and~~] four commercial bait shrimp boat licenses.

26 (b) A person who qualifies to renew a license under Section
27 77.112 on September 1, 1995, may hold each license renewed and after

1 that date may retain and renew the licenses until the licenses are
2 transferred, not renewed, or revoked. A person may not hold or
3 renew more than [~~four commercial bay and~~] four commercial bait
4 shrimp boat licenses under this subsection after August 31, 2002.

5 (c) A commercial [~~bay or~~] bait shrimp boat license must be
6 issued to an individual. A person other than an individual who
7 wishes to retain or seeks to renew a commercial bait shrimp boat
8 license [~~of either type~~] must designate an individual to whom the
9 license will be issued.

10 SECTION 2.05. Section 77.115, Parks and Wildlife Code, is
11 amended to read as follows:

12 Sec. 77.115. TRANSFER FEE. The commission may set a fee
13 for the transfer of a commercial [~~bay or~~] bait shrimp boat license.
14 The amount of the transfer fee may not exceed the amount of the
15 license fee for the license being transferred.

16 SECTION 2.06. Sections 77.116(a), (b), and (d), Parks and
17 Wildlife Code, are amended to read as follows:

18 (a) Except as provided by Subsection (d), a vessel licensed
19 as a commercial [~~bay or~~] bait shrimp boat may not:

20 (1) have an engine that is rated by the manufacturer of
21 the engine at more than 400 horsepower; or

22 (2) exceed 60 feet in length.

23 (b) A vessel licensed as a commercial [~~bay or~~] bait shrimp
24 boat may not be lengthened or have the engine horsepower increased
25 more than once after September 1, 1995.

26 (d) The license for a vessel that on September 1, 1995, is
27 licensed as a commercial [~~bay or~~] bait shrimp boat and exceeds the

1 length or horsepower limit set by Subsection (a) may be renewed, but
2 the vessel may not be lengthened or have the horsepower of the
3 vessel increased. If the vessel is replaced, the replacement
4 vessel must meet the engine and length requirements described in
5 Subsection (a).

6 SECTION 2.07. Sections 77.117(a), (c), and (d), Parks and
7 Wildlife Code, are amended to read as follows:

8 (a) The executive director, after notice and the
9 opportunity for a hearing, may suspend a commercial [~~bay or~~] bait
10 shrimp boat license if the license holder or any other operator of
11 the licensed vessel is convicted of one or more flagrant offenses
12 totalling three flagrant offenses for the licensed vessel. The
13 suspension may be for:

14 (1) six months, if:

15 (A) the date of each offense is within a
16 24-consecutive-month period beginning not earlier than September
17 1, 1995; and

18 (B) the license holder has not previously had a
19 commercial [~~bay or~~] bait shrimp boat license suspended under this
20 section; or

21 (2) 12 months, if the date of each offense is within a
22 24-consecutive-month period and the license holder has previously
23 had a commercial [~~bay or~~] bait shrimp boat license suspended under
24 this section.

25 (c) The executive director, after notice and the
26 opportunity for a hearing, may permanently revoke a commercial [~~bay~~
27 ~~or~~] bait shrimp boat license if:

1 (1) the license holder has previously had a commercial
2 [~~bay or~~] bait shrimp boat license suspended twice under this
3 section;

4 (2) the license holder or any other operator of the
5 licensed vessel is convicted of one or more flagrant offenses
6 totalling three flagrant offenses for the licensed vessel; and

7 (3) the date of each offense is in a
8 24-consecutive-month period beginning not earlier than the date of
9 the most recent previous suspension under this section.

10 (d) For purposes of this section, a flagrant offense
11 includes:

12 (1) trawling in a nursery area in violation of this
13 code or of a proclamation of the commission issued under this code;

14 (2) shrimping longer than 30 minutes before or 30
15 minutes after legal shrimping hours prescribed by this code or by a
16 proclamation of the commission issued under this code;

17 (3) exceeding possession limits, in violation of this
18 code or of a proclamation of the commission issued under this code,
19 by 100 or more pounds;

20 (4) exceeding legal net size, in violation of this
21 code or of a proclamation of the commission issued under this code,
22 by five feet or more; or

23 (5) falsifying information required by this
24 subchapter or a commission rule adopted under this subchapter for
25 the issuance of a commercial [~~bay or~~] bait shrimp boat license.

26 SECTION 2.08. Sections 77.118(a), (b), (c), and (e), Parks
27 and Wildlife Code, are amended to read as follows:

1 (a) The holders of commercial [~~bay and~~] bait shrimp boat
2 licenses shall elect a shrimp license management review board of
3 nine members.

4 (b) A member of the review board must be a holder of a
5 commercial [~~bay or~~] bait shrimp boat license.

6 (c) The nine members of the review board must be selected to
7 reflect the following geographical distribution according to the
8 county of residence specified on the member's commercial [~~bay or~~]
9 bait shrimp boat license:

10 (1) one member representing Orange, Jefferson,
11 Chambers, and Harris counties;

12 (2) two members representing Galveston County;

13 (3) two members representing Brazoria and Matagorda
14 counties;

15 (4) three members representing Calhoun, Aransas,
16 Nueces, San Patricio, and Refugio counties; and

17 (5) one member representing Kleberg, Cameron, and
18 Willacy counties.

19 (e) The executive director shall adopt procedures for the
20 election and operation of the review board. The executive director
21 shall solicit and consider recommendations from the commercial [~~bay
22 and~~] bait shrimp boat license holders regarding the procedures.

23 SECTION 2.09. Sections 47.081, 77.001(7), 77.031, 77.119,
24 77.120, and 78.111, Parks and Wildlife Code, are repealed.

25 ARTICLE 3. TRANSITION

26 SECTION 3.01. On the effective date of this Act, a license
27 issued under Section 77.031, Parks and Wildlife Code, is no longer

1 in effect.

2 SECTION 3.02. (a) The repeal by this Act of Section
3 77.031, Parks and Wildlife Code, does not apply to an offense,
4 related to a violation of that section, committed before the
5 effective date of the repeal. For purposes of this section, an
6 offense is committed before the effective date of the repeal if any
7 element of the offense occurs before that date.

8 (b) An offense committed before the effective date of the
9 repeal is covered by that section as it existed on the date on which
10 the offense was committed, and the former law is continued in effect
11 for that purpose.

12 SECTION 3.03. The change in law made by this Act does not
13 affect liability for the payment of fees accruing before the
14 effective date of this Act. That liability continues in effect as
15 if this Act had not been enacted, and the former law is continued in
16 effect for the collection of fees due and for civil and criminal
17 enforcement of the liability for those fees.

18 SECTION 3.04. Any unobligated amount in the shrimp license
19 buyback account on December 31, 2004, shall be transferred on
20 January 1, 2005, to the undedicated part of the game, fish, and
21 water safety account.

22 ARTICLE 4. EFFECTIVE DATE OF ACT

23 SECTION 4.01. This Act takes effect January 1, 2005.