

By: Hilderbran

H.B. No. 2026

Substitute the following for H.B. No. 2026:

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C.S.H.B. No. 2026

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the taking and possession of certain wildlife or eggs,
3 including requirements related to taxidermy and tanning and to
4 harmful aquatic plants; imposing a penalty.

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

6 SECTION 1. Section 1.101, Parks and Wildlife Code, is
7 amended by adding Subdivision (5) to read as follows:

8 (5) "Take," except as otherwise provided by this code,
9 means collect, hook, hunt, net, shoot, or snare, by any means or
10 device, and includes an attempt to take or to pursue in order to
11 take.

12 SECTION 2. Section 12.013, Parks and Wildlife Code, is
13 amended to read as follows:

14 Sec. 12.013. POWER TO TAKE WILDLIFE. An employee of the
15 department acting within the scope of the employee's authority may
16 possess, take, transport, release, and manage any of the wildlife
17 and fish in this state for investigation, propagation,
18 distribution, education, disease diagnosis or prevention, or
19 scientific purposes.

20 SECTION 3. Section 12.110, Parks and Wildlife Code, is
21 amended to read as follows:

22 Sec. 12.110. DISPOSITION OF CONFISCATED GAME. (a) Except
23 as provided by Subsection (d), the [The] department shall donate,
24 whenever donation [~~same~~] is reasonably practicable, any wild game

1 animal, bird, fowl, [~~or~~] game fish, or exotic animal that [~~which~~] is
2 unlawfully killed, taken, shipped, held in storage, possessed, or
3 offered for sale [~~found~~] in a public eating place to a charitable
4 institution, hospital, or person or persons.

5 (b) The expense of any storage, care, feeding, cold storage,
6 or processing that may be necessary for an unlawfully possessed
7 game bird, fowl, animal, [~~or~~] game fish, or exotic animal shall be
8 assessed against the violator on the violator's [~~his~~] conviction.

9 (c) The department and an enforcement officer of the
10 department who acts under this section are not liable in any civil
11 action for the seizure, sale, or donation of a game bird, other
12 fowl, animal, [~~or~~] game fish, or exotic animal.

13 (d) The department may sell confiscated live game described
14 by Subsection (a) to the highest of three bidders. At the time of a
15 sale under this subsection, the department shall provide the buyer
16 a receipt for all game sold to the buyer. The department shall
17 deposit the proceeds of the sale in the state treasury to the credit
18 of suspense account 900 pending the outcome of any action against
19 the person charged with an unlawful action described by Subsection
20 (a). If that person is found guilty, pleads guilty or nolo
21 contendere, or is placed on deferred adjudication, the department
22 shall deposit the proceeds of the sale into the game, fish, and
23 water safety account. If the person is found not guilty, the
24 department shall pay the proceeds of the sale to the person.

25 (e) This section does not apply to the lawful possession or
26 sale of an exotic animal.

27 (f) In this section, "exotic animal" has the meaning

1 assigned by Section 62.015.

2 SECTION 4. Section 12.409, Parks and Wildlife Code, is
3 amended to read as follows:

4 Sec. 12.409. SEPARATE OFFENSES. Each fish, bird, animal,
5 reptile, [~~or~~] amphibian, or egg or part of a fish, bird, animal,
6 reptile, [~~or~~] amphibian, or egg taken, possessed, killed, left to
7 die, imported, exported, offered for sale, sold, purchased,
8 attempted to be purchased, or retained in violation of any
9 provision of this code or a proclamation or regulation adopted
10 under this code constitutes a separate offense.

11 SECTION 5. Section 42.002(b), Parks and Wildlife Code, is
12 amended to read as follows:

13 (b) A resident possessing a valid [~~resident alligator~~
14 ~~hunter's license,~~] resident trapper's license[+] or fur-bearing
15 animal propagation permit is not required to have a license issued
16 under this section to take or possess the species covered by the
17 license or permit.

18 SECTION 6. Section 42.005(c), Parks and Wildlife Code, is
19 amended to read as follows:

20 (c) A nonresident possessing a valid [~~nonresident alligator~~
21 ~~hunter's license or~~] nonresident trapper's license is not required
22 to have a license issued under this section to take or possess the
23 species governed by the license.

24 SECTION 7. The heading to Section 43.073, Parks and
25 Wildlife Code, is amended to read as follows:

26 Sec. 43.073. [~~SIZE OF~~] AREA[+] LIMITATIONS AND[+] MARKINGS.

27 SECTION 8. Sections 43.073(a) and (c), Parks and Wildlife

1 Code, are amended to read as follows:

2 (a) A private bird hunting area must [~~may~~] consist of [~~not~~
3 ~~more than 8,000~~] contiguous acreage owned by an individual,
4 partnership, firm, or corporation [~~acres~~].

5 (c) Signs must [~~shall~~] be placed at each entrance to a
6 private bird hunting area [~~and all corners~~] to identify clearly the
7 boundaries of each licensed area.

8 SECTION 9. Section 44.001, Parks and Wildlife Code, is
9 amended by adding Subdivision (3) to read as follows:

10 (3) "Game animal" means a pronghorn antelope, a
11 collared peccary or javelina, or a red or gray squirrel.

12 SECTION 10. Section 44.002, Parks and Wildlife Code, is
13 amended to read as follows:

14 Sec. 44.002. LICENSE REQUIREMENT. No person may sell,
15 place in captivity, or engage in the business of propagating any
16 game animal of this state unless the person [~~he~~] has obtained a
17 license issued under this chapter from the department.

18 SECTION 11. Section 44.005(b), Parks and Wildlife Code, is
19 amended to read as follows:

20 (b) The game breeder shall place a suitable permanent
21 [~~metal~~] tag bearing the game breeder's [~~his~~] serial number on the
22 ear of each pronghorn antelope or collared peccary or javelina held
23 in captivity [~~or sold~~] by the game breeder.

24 SECTION 12. Section 44.006, Parks and Wildlife Code, is
25 amended to read as follows:

26 Sec. 44.006. LICENSE PRIVILEGES. The holder of a valid game
27 breeder's license may:

1 (1) engage in the business of game breeding in the
2 immediate locality for which the license was issued; or

3 (2) sell or hold in captivity for the purpose of
4 propagation or sale a game animal [~~antelope, collared peccary, and~~
5 ~~wild squirrels~~].

6 SECTION 13. Chapter 45, Parks and Wildlife Code, is amended
7 by adding Section 45.0001 to read as follows:

8 Sec. 45.0001. DEFINITIONS. In this chapter:

9 (1) "Game bird" has the meaning assigned by Section
10 64.001 and includes "migratory game birds."

11 (2) "Migratory game bird" has the meaning assigned by
12 Section 64.021.

13 SECTION 14. Section 45.001, Parks and Wildlife Code, is
14 amended to read as follows:

15 Sec. 45.001. LICENSE REQUIRED. No person may possess game
16 birds in captivity for the purpose of propagation or sale or sell
17 game bird eggs without first acquiring the proper license
18 authorized to be issued under this chapter.

19 SECTION 15. Section 45.003, Parks and Wildlife Code, is
20 amended by adding Subsection (c) to read as follows:

21 (c) A class 1 or class 2 commercial game bird breeder's
22 license is valid for selling game bird eggs in this state,
23 regardless of the number of eggs sold.

24 SECTION 16. The heading to Section 45.005, Parks and
25 Wildlife Code, is amended to read as follows:

26 Sec. 45.005. RECORDS OF LIVE BIRD AND EGG SALES.

27 SECTION 17. Section 45.005(a), Parks and Wildlife Code, is

1 amended to read as follows:

2 (a) No holder of a commercial game bird breeder's license
3 may sell a live game bird or game bird egg without issuing a written
4 document showing the name and serial number of the game bird
5 breeder, the name and address of the purchaser, and the kind or
6 species [~~description~~] and number of game birds or game bird eggs
7 sold. The document shall be delivered to the purchaser.

8 SECTION 18. Section 45.0061, Parks and Wildlife Code, is
9 amended to read as follows:

10 Sec. 45.0061. SOURCE OF GAME BIRDS. A person who is not
11 required to possess a commercial game bird breeder's license and
12 who is in possession of a live game bird, game bird egg, or part of a
13 dead game bird shall, on the request of a game warden commissioned
14 by the department, furnish to the warden a receipt showing the name
15 and street address of the person and the name and street address of
16 the source from which any live game bird, game bird egg, or part of a
17 dead game bird in the possession of the person was derived. The
18 receipt must also show the date of sale and the kind or species and
19 number of live game birds, game bird eggs, or parts of dead game
20 birds acquired. The failure or refusal to comply with this section
21 is a violation of this chapter.

22 SECTION 19. Section 45.007(b), Parks and Wildlife Code, is
23 amended to read as follows:

24 (b) No person may purchase a live game bird or game bird egg
25 except from a holder of a game bird breeder's license; however,
26 this subsection does not prohibit the purchase of live game birds or
27 game bird eggs [~~delivered by a common carrier~~] from a lawful source

1 outside the state.

2 SECTION 20. Sections 45.008(a) and (b), Parks and Wildlife
3 Code, are amended to read as follows:

4 (a) Each commercial game bird breeder shall maintain
5 records showing the numbers of game birds and game bird eggs
6 acquired, propagated, sold, and disposed of in any other manner.
7 The records must [~~shall~~] be on forms provided by the department and
8 must [~~shall~~] contain any other information required by the
9 department.

10 (b) During August of each year or another month set by the
11 commission, but before August 31 or another date established by the
12 commission, a commercial game bird breeder shall send to the
13 department a report showing the total number of game birds in the
14 possession of the breeder during the reporting period and
15 accounting for the acquisition and disposition of each game bird or
16 game bird egg purchased or sold. The reporting period is from
17 August 1 of the preceding year through July 31 of the current year
18 or another yearly period established by the commission.

19 SECTION 21. Subchapter A, Chapter 62, Parks and Wildlife
20 Code, is amended by adding Section 62.002 to read as follows:

21 Sec. 62.002. COMPUTER-ASSISTED REMOTE HUNTING. (a) In
22 this section:

23 (1) "Computer-assisted remote hunting" means the use
24 of a computer or any other device, equipment, or software, to
25 remotely control the aiming and discharge of archery equipment, a
26 crossbow, or a firearm to hunt an animal, including a bird.

27 (2) "Firearm" and "archery equipment" have the

1 meanings assigned by Section 62.014.

2 (b) A person may not engage in computer-assisted remote
3 hunting or provide or operate facilities for computer-assisted
4 remote hunting if the animal being hunted is located in this state.

5 (c) For purposes of this section, facilities for
6 computer-assisted remote hunting include real property and
7 improvements on the property associated with hunting, including
8 hunting blinds, offices, and rooms equipped to facilitate
9 computer-assisted remote hunting.

10 (d) A person who violates this section commits an offense
11 that is a Class B Parks and Wildlife Code misdemeanor, unless it is
12 shown at the trial of the defendant that the defendant has been
13 convicted one or more times before the trial date of a violation of
14 this section, in which case the offense is a Class A Parks and
15 Wildlife Code misdemeanor.

16 (e) It is an exception to the application of this section
17 that a person provides only:

18 (1) general-purpose equipment, including a computer,
19 camera, fencing, and building materials;

20 (2) general-purpose computer software including an
21 operating system and communications programs; or

22 (3) general telecommunications hardware or networking
23 services for computers, including adapters, modems, servers,
24 routers, and other facilities associated with Internet access.

25 SECTION 22. Section 62.003(a), Parks and Wildlife Code, is
26 amended to read as follows:

27 (a) Except as provided in Subsection (b) [~~of this section~~],

1 no person may hunt any wild bird or wild animal, other than an
2 alligator, frog, or turtle, from any type of aircraft or airborne
3 device, motor vehicle, powerboat, or sailboat, or from any other
4 floating device [~~any wild bird or wild animal~~].

5 SECTION 23. Sections 62.023(a) and (c), Parks and Wildlife
6 Code, are amended to read as follows:

7 (a) If the owner of a lawfully taken game animal or game
8 bird, including the head [~~heads~~] or hide of a lawfully taken game
9 animal or game bird [~~hides~~] that has [~~have~~] been mounted or tanned,
10 has not claimed the mounted game animal, game bird, or head or the
11 tanned hide [~~them~~] within 90 days after notification by a
12 taxidermist or tanner, the taxidermist or tanner may sell the
13 mounted game animal, game bird other than a migratory game bird, or
14 head or tanned hide [~~head or hides~~] for the amount due for labor
15 performed.

16 (c) A taxidermist or tanner selling a mounted game animal,
17 game bird, or head or tanned hide [~~heads or hides~~] under this
18 section shall maintain, until the second anniversary of the
19 completion of the taxidermy or tanning, documentation of the
20 identity of the person who left the game animal, game bird, head, or
21 hide for taxidermy or tanning. Documentation under this section
22 may include a hunting tag, wildlife resource document, or cold
23 storage record [~~report immediately the sale to the department. The~~
24 ~~report must include the name of the person purchasing the head or~~
25 ~~hides and a copy of the transportation affidavit regarding the~~
26 ~~manner in which the head or hides were obtained~~].

27 SECTION 24. Section 62.068, Parks and Wildlife Code, is

1 amended to read as follows:

2 Sec. 62.068. ARREST. A peace officer, game warden
3 [~~management officer~~], or commissioned state park employee may
4 arrest without warrant a person found committing a violation of
5 this subchapter.

6 SECTION 25. Section 65.006, Parks and Wildlife Code, is
7 amended to read as follows:

8 Sec. 65.006. PERMIT [~~LICENSE~~] REQUIRED. [~~(a) No person may~~
9 ~~take, attempt to take, or possess an alligator in this state unless~~
10 ~~the person has acquired and possesses an alligator hunter's~~
11 ~~license.~~

12 [~~(b)~~] No person for any purpose may possess, purchase, or
13 possess after purchase an alligator, an alligator hide, an
14 alligator egg, or any part of an alligator taken in this state
15 unless:

16 (1) the person has acquired and possesses a permit
17 issued by the department for that purpose; or

18 (2) a regulation of the commission otherwise allows
19 the possession or purchase without a permit.

20 SECTION 26. Subchapter A, Chapter 66, Parks and Wildlife
21 Code, is amended by adding Section 66.0071 to read as follows:

22 Sec. 66.0071. REMOVAL OF HARMFUL AQUATIC PLANTS. On
23 leaving any public or private body of water in this state, a person
24 shall immediately remove and lawfully dispose of any harmful or
25 potentially harmful aquatic plant included on the list published
26 under Section 66.007(b) that is clinging or attached to the
27 person's:

- 1 (1) vessel or watercraft; or
- 2 (2) trailer, motor vehicle, or other mobile device
- 3 used to transport or launch a vessel or watercraft.

4 SECTION 27. Section 71.001(1), Parks and Wildlife Code, is
5 amended to read as follows:

- 6 (1) "Fur-bearing animal" means wild beaver, otter,
7 mink, ring-tailed cat, badger, skunk, raccoon, muskrat, opossum,
8 fox, or nutria [~~, or civet cat~~].

9 SECTION 28. Section 102.021, Government Code, is amended to
10 read as follows:

11 Sec. 102.021. COURT COSTS ON CONVICTION. A person
12 convicted of an offense shall pay, in addition to all other costs:

- 13 (1) court costs on conviction of a felony (Sec.
14 133.102, Local Government Code) . . . \$133;

- 15 (2) court costs on conviction of a Class A or Class B
16 misdemeanor (Sec. 133.102, Local Government Code) . . . \$83;

- 17 (3) court costs on conviction of a nonjailable
18 misdemeanor offense, including a criminal violation of a municipal
19 ordinance, other than a conviction of an offense relating to a
20 pedestrian or the parking of a motor vehicle (Sec. 133.102, Local
21 Government Code) . . . \$40;

- 22 (4) court costs on certain convictions in statutory
23 county courts (Sec. 51.702, Government Code) . . . \$15;

- 24 (5) court costs on certain convictions in certain
25 county courts (Sec. 51.703, Government Code) . . . \$15;

- 26 (6) a time payment fee if convicted of a felony or
27 misdemeanor for paying any part of a fine, court costs, or

1 restitution on or after the 31st day after the date on which a
2 judgment is entered assessing the fine, court costs, or restitution
3 (Sec. 133.103, Local Government Code) . . . \$25;

4 (7) a fee for services of prosecutor (Art. 102.008,
5 Code of Criminal Procedure) . . . \$25;

6 (8) fees for services of peace officer:

7 (A) issuing a written notice to appear in court
8 for certain violations (Art. 102.011, Code of Criminal
9 Procedure) . . . \$5;

10 (B) executing or processing an issued arrest
11 warrant or capias (Art. 102.011, Code of Criminal
12 Procedure) . . . \$50;

13 (C) summoning a witness (Art. 102.011, Code of
14 Criminal Procedure) . . . \$5;

15 (D) serving a writ not otherwise listed (Art.
16 102.011, Code of Criminal Procedure) . . . \$35;

17 (E) taking and approving a bond and, if
18 necessary, returning the bond to courthouse (Art. 102.011, Code of
19 Criminal Procedure) . . . \$10;

20 (F) commitment or release (Art. 102.011, Code of
21 Criminal Procedure) . . . \$5;

22 (G) summoning a jury (Art. 102.011, Code of
23 Criminal Procedure) . . . \$5;

24 (H) attendance of a prisoner in habeas corpus
25 case if prisoner has been remanded to custody or held to bail (Art.
26 102.011, Code of Criminal Procedure) . . . \$8 each day;

27 (I) mileage for certain services performed (Art.

1 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

2 (J) services of a sheriff or constable who serves
3 process and attends examining trial in certain cases (Art. 102.011,
4 Code of Criminal Procedure) . . . not to exceed \$5;

5 (9) services of a peace officer in conveying a witness
6 outside the county (Art. 102.011, Code of Criminal
7 Procedure) . . . \$10 per day or part of a day, plus actual
8 necessary travel expenses;

9 (10) overtime of peace officer for time spent
10 testifying in the trial or traveling to or from testifying in the
11 trial (Art. 102.011, Code of Criminal Procedure) . . . actual
12 cost;

13 (11) court costs on an offense relating to rules of the
14 road, when offense occurs within a school crossing zone (Art.
15 102.014, Code of Criminal Procedure) . . . \$25;

16 (12) court costs on an offense of passing a school bus
17 (Art. 102.014, Code of Criminal Procedure) . . . \$25;

18 (13) court costs on an offense of truancy or
19 contributing to truancy (Art. 102.014, Code of Criminal
20 Procedure) . . . \$20;

21 (14) cost for visual recording of intoxication arrest
22 before conviction (Art. 102.018, Code of Criminal
23 Procedure) . . . \$15;

24 (15) cost of certain evaluations (Art. 102.018, Code
25 of Criminal Procedure) . . . actual cost;

26 (16) additional costs attendant to certain
27 intoxication convictions under Chapter 49, Penal Code, for

1 emergency medical services, trauma facilities, and trauma care
2 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;

3 (17) cost for DNA testing for certain felonies (Art.
4 102.020, Code of Criminal Procedure) . . . \$250;

5 (18) court cost on an offense of public lewdness or
6 indecent exposure (Art. 102.020, Code of Criminal
7 Procedure) . . . \$50;

8 (19) court cost on conviction of a misdemeanor under
9 Subtitle C, Title 7, Transportation Code (Sec. 542.403,
10 Transportation Code) . . . \$3;

11 (20) cost for impoundment of vehicle (Sec. 601.263,
12 Transportation Code) . . . \$15 per day; ~~and~~

13 (21) a civil and criminal enforcement cost on
14 conviction of an offense of, or related to, the nonpayment of a toll
15 in certain counties (Sec. 284.2031, Transportation Code) . . . \$1;
16 and

17 (22) the cost of any storage, care, feeding, cold
18 storage, or processing necessary for an unlawfully taken, shipped,
19 or possessed game bird, fowl, animal, game fish, or exotic animal
20 (Sec. 12.110, Parks and Wildlife Code) . . . actual cost.

21 SECTION 29. The following laws are repealed:

22 (1) Section 61.901(c), Parks and Wildlife Code;

23 (2) Section 62.023(b), Parks and Wildlife Code;

24 (3) Section 65.007, Parks and Wildlife Code; and

25 (4) Section 71.004(b), Parks and Wildlife Code.

26 SECTION 30. (a) The changes in law made by Section 12.409,
27 Parks and Wildlife Code, as amended by this Act, and the repeal of

1 Section 61.901(c), Parks and Wildlife Code, by this Act apply only
2 to an offense committed on or after the effective date of this Act.
3 An offense committed before the effective date of this Act is
4 governed by the law in effect at the time the offense was committed,
5 and the former law is continued in effect for that purpose. For
6 purposes of this section, an offense was committed before the
7 effective date of this Act if any element of the offense was
8 committed before that date.

9 (b) The repeal of Section 65.007, Parks and Wildlife Code,
10 by this Act applies only to a license issued on or after September
11 1, 2006.

12 SECTION 31. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for immediate
16 effect, this Act takes effect September 1, 2005.