

By: Hilderbran

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; imposing a
4 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) The
23 department shall donate, whenever donation [~~same~~] is reasonably
24 practicable, any wild game animal, bird, fowl, [~~or~~] game fish, or

1 exotic animal that [~~which~~] is unlawfully killed, taken, shipped,
2 held in storage, or found in a public eating place to a charitable
3 institution, hospital, or person or persons.

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

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

12 (d) In this section, "exotic animal" has the meaning
13 assigned by Section 62.015.

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

16 Sec. 12.409. SEPARATE OFFENSES. Each fish, bird, animal,
17 reptile, [~~or~~] amphibian, or egg or part of a fish, bird, animal,
18 reptile, [~~or~~] amphibian, or egg taken, possessed, killed, left to
19 die, imported, exported, offered for sale, sold, purchased,
20 attempted to be purchased, or retained in violation of any
21 provision of this code or a proclamation or regulation adopted
22 under this code constitutes a separate offense.

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

25 (b) A resident possessing a valid [~~resident alligator~~
26 ~~hunter's license,~~] resident trapper's license[~~7~~] or fur-bearing
27 animal propagation permit is not required to have a license issued

1 under this section to take or possess the species covered by the
2 license or permit.

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

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

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

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

12 SECTION 8. Sections 43.073(a) and (c), Parks and Wildlife
13 Code, are amended to read as follows:

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

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

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

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

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

26 Sec. 44.002. LICENSE REQUIREMENT. No person may sell,
27 place in captivity, or engage in the business of propagating any

1 game animal of this state unless the person [~~he~~] has obtained a
2 license issued under this chapter from the department.

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

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

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

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

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

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

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

20 Sec. 45.0001. DEFINITIONS. In this chapter:

21 (1) "Game bird" has the meaning assigned by Section
22 64.001 and includes "migratory game birds."

23 (2) "Migratory game bird" has the meaning assigned by
24 Section 64.021.

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

27 Sec. 45.001. LICENSE REQUIRED. No person may possess game

1 birds in captivity for the purpose of propagation or sale or sell
2 game bird eggs without first acquiring the proper license
3 authorized to be issued under this chapter.

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

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

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

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

12 SECTION 17. Section 45.005(a), Parks and Wildlife Code, is
13 amended to read as follows:

14 (a) No holder of a commercial game bird breeder's license
15 may sell a live game bird or game bird egg without issuing a written
16 document showing the name and serial number of the game bird
17 breeder, the name and address of the purchaser, and the kind or
18 species [~~description~~] and number of game birds or game bird eggs
19 sold. The document shall be delivered to the purchaser.

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

22 Sec. 45.0061. SOURCE OF GAME BIRDS. A person who is not
23 required to possess a commercial game bird breeder's license and
24 who is in possession of a live game bird, game bird egg, or part of a
25 dead game bird shall, on the request of a game warden commissioned
26 by the department, furnish to the warden a receipt showing the name
27 and street address of the person and the name and street address of

1 the source from which any live game bird, game bird egg, or part of a
2 dead game bird in the possession of the person was derived. The
3 receipt must also show the date of sale and the kind or species and
4 number of live game birds, game bird eggs, or parts of dead game
5 birds acquired. The failure or refusal to comply with this section
6 is a violation of this chapter.

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

9 (b) No person may purchase a live game bird or game bird egg
10 except from a holder of a game bird breeder's license; however,
11 this subsection does not prohibit the purchase of live game birds or
12 game bird eggs [~~delivered by a common carrier~~] from a lawful source
13 outside the state.

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

16 (a) Each commercial game bird breeder shall maintain
17 records showing the numbers of game birds and game bird eggs
18 acquired, propagated, sold, and disposed of in any other manner.
19 The records must [~~shall~~] be on forms provided by the department and
20 must [~~shall~~] contain any other information required by the
21 department.

22 (b) During August of each year or another month set by the
23 commission, but before August 31 or another date established by the
24 commission, a commercial game bird breeder shall send to the
25 department a report showing the total number of game birds in the
26 possession of the breeder during the reporting period and
27 accounting for the acquisition and disposition of each game bird or

1 game bird egg purchased or sold. The reporting period is from
2 August 1 of the preceding year through July 31 of the current year
3 or another yearly period established by the commission.

4 SECTION 21. Section 62.003, Parks and Wildlife Code, is
5 amended by amending Subsection (a) and adding Subsection (c) to
6 read as follows:

7 (a) Except as provided in Subsections [~~Subsection~~] (b) and
8 (c) [~~of this section~~], no person may hunt from any type of aircraft
9 or airborne device, motor vehicle, powerboat, or sailboat, or from
10 any other floating device any wild bird or wild animal.

11 (c) A person, while on public water, may hunt alligators,
12 frogs, or turtles from a powerboat, sailboat, or other floating
13 device if the person has acquired the license or licenses, permits,
14 or tags required to take alligators, frogs, or turtles.

15 SECTION 22. Sections 62.023(a) and (c), Parks and Wildlife
16 Code, are amended to read as follows:

17 (a) If the owner of a lawfully taken game animal or game
18 bird, including the head [~~heads~~] or hide of a lawfully taken game
19 animal or game bird [~~hides~~] that has [~~have~~] been mounted or tanned,
20 has not claimed the game animal, game bird, head, or hide [~~them~~]
21 within 90 days after notification by a taxidermist or tanner, the
22 taxidermist or tanner may sell the mounted game animal, game bird,
23 or head or tanned hide [~~head or hides~~] for the amount due for labor
24 performed.

25 (c) A taxidermist or tanner selling a mounted game animal,
26 game bird, or head or tanned hide [~~heads or hides~~] under this
27 section shall maintain, until the second anniversary of the

1 completion of the taxidermy or tanning, documentation of the
2 identity of the person who left the game animal, game bird, head, or
3 hide for taxidermy or tanning. Documentation under this section
4 may include a hunting tag, wildlife resource document, or cold
5 storage record [~~report immediately the sale to the department. The~~
6 ~~report must include the name of the person purchasing the head or~~
7 ~~hides and a copy of the transportation affidavit regarding the~~
8 ~~manner in which the head or hides were obtained~~].

9 SECTION 23. Section 62.068, Parks and Wildlife Code, is
10 amended to read as follows:

11 Sec. 62.068. ARREST. A peace officer, game warden
12 [~~management officer~~], or commissioned state park employee may
13 arrest without warrant a person found committing a violation of
14 this subchapter.

15 SECTION 24. Section 65.006, Parks and Wildlife Code, is
16 amended to read as follows:

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

21 [~~(b)~~] No person for any purpose may possess, purchase, or
22 possess after purchase an alligator, an alligator hide, an
23 alligator egg, or any part of an alligator taken in this state
24 unless:

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

27 (2) a regulation of the commission otherwise allows

1 the possession or purchase without a permit.

2 SECTION 25. Section 71.001(1), Parks and Wildlife Code, is
3 amended to read as follows:

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

7 SECTION 26. Section 102.021, Government Code, is amended to
8 read as follows:

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

11 (1) court costs on conviction of a felony (Sec.
12 133.102, Local Government Code) . . . \$133;

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

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

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

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

24 (6) a time payment fee if convicted of a felony or
25 misdemeanor for paying any part of a fine, court costs, or
26 restitution on or after the 31st day after the date on which a
27 judgment is entered assessing the fine, court costs, or restitution

1 (Sec. 133.103, Local Government Code) . . . \$25;

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

4 (8) fees for services of peace officer:

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

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

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

13 (D) serving a writ not otherwise listed (Art.
14 102.011, Code of Criminal Procedure) . . . \$35;

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

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

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

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

25 (I) mileage for certain services performed (Art.
26 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

27 (J) services of a sheriff or constable who serves

1 process and attends examining trial in certain cases (Art. 102.011,
2 Code of Criminal Procedure) . . . not to exceed \$5;

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

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

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

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

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

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

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

24 (16) additional costs attendant to certain
25 intoxication convictions under Chapter 49, Penal Code, for
26 emergency medical services, trauma facilities, and trauma care
27 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;

1 (17) cost for DNA testing for certain felonies (Art.
2 102.020, Code of Criminal Procedure) . . . \$250;

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

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

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

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

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

19 SECTION 27. The following laws are repealed:

- 20 (1) Section 61.901(c), Parks and Wildlife Code;
21 (2) Section 62.023(b), Parks and Wildlife Code;
22 (3) Section 65.007, Parks and Wildlife Code; and
23 (4) Section 71.004(b), Parks and Wildlife Code.

24 SECTION 28. (a) The changes in law made by Section 12.409,
25 Parks and Wildlife Code, as amended by this Act, and the repeal of
26 Section 61.901(c), Parks and Wildlife Code, by this Act apply only
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is
2 governed by the law in effect at the time the offense was committed,
3 and the former law is continued in effect for that purpose. For
4 purposes of this section, an offense was committed before the
5 effective date of this Act if any element of the offense was
6 committed before that date.

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

10 SECTION 29. This Act takes effect immediately if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this Act takes effect September 1, 2005.