

BILL ANALYSIS

C.S.H.B. 1965
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Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The overpopulation of white-tailed deer has caused an unknown amount of damage to cash crops in Texas. Legislation was developed in previous sessions to address the problem; however, applying for a permit to control wildlife causing harm to Texas agriculture producers is time-consuming for applicants, counties, and the Parks and Wildlife Department. A pilot program was created specifically for Tom Green County to develop a model for the program and to identify the challenging statutes in order to simplify the process.

C.S.H.B. 1965 makes changes in the permitting process for controlling protected wildlife that is causing serious harm to commercial agricultural, horticultural, and aquicultural interests, or that is a threat to public safety. The bill authorizes the Parks and Wildlife Commission to adopt rules to implement provisions relating to such permits.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1965 amends the Parks and Wildlife Code to require a person who has evidence clearly showing that protected wildlife is causing serious damage to commercial, rather than unspecified, agricultural, horticultural, or aquicultural interests only, or is a threat to public safety, and who desires to kill the protected wildlife to give written notice of the facts to the Parks and Wildlife Department (PWD), rather than to the county judge of the county or to the mayor of the municipality in which the damage or threat occurs.

C.S.H.B. 1965 authorizes, rather than requires, PWD on receiving such notice to inspect the property and determine if the alleged damage or threat is occurring. The bill removes the provision requiring PWD, if the damage or threat is occurring, to make recommendations to the person for controlling the damage or threat.

C.S.H.B. 1965 requires an application for a permit to kill protected wildlife to contain, among other things, an agreement by the applicant to comply with the provisions relating to permits to control protected wildlife and any rules adopted by the Parks and Wildlife Commission under those provisions, rather than an agreement to comply with the provisions relating to the disposition of the protected wildlife. The bill requires a permit application fee of \$50 or an amount set by the commission, whichever amount is more, and requires proceeds from the fee to be deposited in the special game, fish, and water safety account. The bill repeals provisions requiring an application to be accompanied by certain signed statements and a certification of the county judge that the application is true.

C.S.H.B. 1965 requires PWD to deliver or mail, rather than deliver, the permit to the person requesting the permit or to the regional or local office of PWD for pickup by the person. The bill

removes a provision prohibiting the permit from being delivered earlier than 24 hours after the notice was received by PWD. The bill requires the permit to specify the number, in addition to the kind, of wildlife authorized to be killed.

C.S.H.B. 1965 requires a person permitted to kill the noxious wildlife under the authority of a permit or the permit holder, rather than a game warden or other PWD employee who has been notified of the carcass's location, to dispose of the carcass in a manner allowed under the law. The bill prohibits the person from keeping or selling any part of the wildlife taken, including antlers.

C.S.H.B. 1965 adds to the conditions under PWD may cancel the permit, the permit holder's failure to submit a required report to PWD or the permit holder intentionally making false claims on the application for the permit. The bill authorizes PWD to reinstate a canceled permit if the permit holder submits an application for reinstatement in the same manner as required for an original permit and pays a fee set by the commission. The bill establishes that a person who violates a reporting requirement adopted under provisions relating to permits to control protected wildlife commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

C.S.H.B. 1965 authorizes the commission to adopt rules to implement provisions relating to permits to control protected wildlife, including rules governing reports that must be submitted to PWD by a person who holds a permit issued by the department under those provisions, the reinstatement of a canceled permit and a fee for the reinstatement, the possession of wildlife resources taken or held under those provisions, and the circumstances required to qualify for a permit.

C.S.H.B. 1965 repeals the following provisions of the Parks and Wildlife Code:

- Section 43.153(c)
- Section 43.157(a)

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1965 strikes a provision in statute not stricken in the original requiring the Parks and Wildlife Department (PWD) to make recommendations to a person who has notified the department of damage or threats. The substitute differs from the original by repealing provisions requiring an application for a permit to kill protected wildlife that is a threat or causes damage to be accompanied by certain signed statements and a certification of the county judge that the application is true, whereas the original removed the provision requiring the certification of the county judge. The substitute differs from the original by striking a provision in statute prohibiting the permit from being delivered earlier than 24 hours after a notice of damage or threat from the county judge or mayor was received by PWD, whereas the original only removed the reference to the county judge or mayor from the prohibition. The substitute adds a provision not in the original to require the permit to specify the number, in addition to the kind, of wildlife authorized to be killed. The substitute adds provisions not in the original to authorize the Parks and Wildlife Commission to adopt rules governing the possession of wildlife resources taken or held under provisions relating to permits to control protected wildlife and the circumstances required to qualify for a permit. The substitute establishes that the act takes effect immediately on passage, or September 1, 2009, if it does not receive the necessary vote, rather than September 1, 2009, as in the original.