

AN ACT

relating to permits to control protected wildlife; providing a penalty.

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

SECTION 1. Section 43.151, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.151. THREATS TO PUBLIC SAFETY OR DAMAGE BY WILDLIFE. ~~[(a)]~~ A person who has evidence clearly showing that wildlife protected by this code is causing serious damage to commercial agricultural, horticultural, or aquicultural interests ~~[or other property]~~, or is a threat to public safety, and who desires to kill the protected wildlife shall give written notice of the facts to the department ~~[county judge of the county or to the mayor of the municipality in which the damage or threat occurs]~~.

~~[(b) The county judge or mayor, on receiving the notice, shall immediately cause a substantial copy of the notice to be posted in the county courthouse or city hall, as applicable, and shall notify the department of the location of the property where the damage or threat is occurring, the type of damage or nature of the threat, and the name of the applicant.]~~

SECTION 2. Subchapter H, Chapter 43, Parks and Wildlife Code, is amended by adding Section 43.1515 to read as follows:

Sec. 43.1515. RULES. The commission may adopt rules to implement this subchapter, including rules governing:

1 (1) reports that must be submitted to the department
2 by a person who holds a permit issued by the department under this
3 subchapter;

4 (2) the reinstatement of a canceled permit and a fee
5 for the reinstatement;

6 (3) the possession of wildlife resources taken or held
7 under this subchapter;

8 (4) the circumstances required to qualify for a
9 permit; and

10 (5) the electronic issuance of permits.

11 SECTION 3. Section 43.152, Parks and Wildlife Code, is
12 amended to read as follows:

13 Sec. 43.152. DEPARTMENT INSPECTION. (a) On receiving
14 notice from a person under Section 43.151 [~~a county judge or mayor~~],
15 the department may [~~shall~~] inspect the property and determine if
16 damage or a threat to public safety is occurring as alleged in the
17 notice.

18 (b) If the notice received by the department under Section
19 43.151 alleges damage or a threat to public safety caused by mule
20 deer, pronghorn antelope, or desert bighorn sheep, the department
21 may not issue a permit under Section 43.154 unless the department
22 inspects the property and determines whether serious damage or a
23 threat to public safety is occurring. [~~If the damage or threat is~~
24 ~~occurring, the department shall make recommendations to the person~~
25 ~~as are feasible and appropriate for controlling the damage or~~
26 ~~threat.~~]

27 SECTION 4. Section 43.153, Parks and Wildlife Code, is

1 amended by amending Subsection (b) and adding Subsection (d) to
2 read as follows:

3 (b) The application must be in writing, ~~and~~ be sworn to by
4 the applicant, ~~and~~ ~~must~~ contain:

5 (1) a statement of facts relating to the damage or
6 threat; and

7 (2) an agreement by the applicant to comply with the
8 provisions of this subchapter and any rules adopted by the
9 commission under this subchapter ~~[relating to the disposition of~~
10 ~~the protected wildlife]~~.

11 (d) The application must be accompanied by a permit
12 application fee of \$50 or an amount set by the commission, whichever
13 amount is more. Proceeds from the fee shall be deposited in the
14 special game, fish, and water safety account.

15 SECTION 5. Section 43.154, Parks and Wildlife Code, is
16 amended by amending Subsections (a), (b), and (c) and adding
17 Subsection (a-1) to read as follows:

18 (a) On receipt of an application, the department may issue a
19 permit for the killing of wildlife without regard to the closed
20 season, bag limit, or means and methods. As soon as practicable,
21 but not later than the 10th business day after the date the
22 department receives an application, the department shall approve or
23 deny the application and, if the application is approved, issue the
24 permit.

25 (a-1) The department may not issue a permit under this
26 section for the killing of mule deer, pronghorn antelope, or desert
27 bighorn sheep unless:

1 (1) the department has inspected the property and has
2 verified that serious damage or a threat to public safety as
3 described in the notice under Section 43.151 is occurring;

4 (2) the department has made recommendations to the
5 applicant regarding ways to minimize the damage or threat; and

6 (3) the applicant has made a reasonable effort to
7 comply with the recommendations made by the department under this
8 section.

9 (b) The department shall deliver or mail the permit, if
10 issued, to the person requesting the permit or to the regional or
11 local office of the department for pickup by the person. The
12 department may issue the permit electronically [~~county judge or~~
13 ~~mayor that sent the notice of damage or threat. The permit may not~~
14 ~~be delivered earlier than 24 hours after the notice from the county~~
15 ~~judge or mayor was received by the department~~].

16 (c) A permit must specify:

17 (1) the period of time during which it is valid;

18 (2) the area in which it applies;

19 (3) the kind and number of wildlife authorized to be
20 killed; and

21 (4) the persons permitted to kill the noxious
22 wildlife.

23 SECTION 6. Section 43.155, Parks and Wildlife Code, is
24 amended to read as follows:

25 Sec. 43.155. DISPOSITION OF WILDLIFE. (a) The holder of a
26 permit issued under this subchapter or a person designated by
27 Section 43.154(c)(4) who kills wildlife under the authority of the

1 permit shall [~~give the location of the wildlife carcass to the game~~
2 ~~warden or other department employee assigned to the area covered by~~
3 ~~the permit.~~

4 [~~(b) The game warden or other department employee notified~~
5 ~~shall]~~ dispose of the carcass by donating it to a charitable
6 institution, a hospital, a needy person, or any other appropriate
7 recipient [~~, or as directed by the court].~~

8 (b) The permit holder or a person designated under Section
9 43.154(c)(4) may not keep or sell any part of the wildlife taken
10 under this subchapter, including antlers.

11 SECTION 7. Section 43.156, Parks and Wildlife Code, is
12 amended to read as follows:

13 Sec. 43.156. CANCELLATION OF PERMIT. The department may
14 cancel a permit if:

15 (1) the permit does not accomplish its intended
16 purposes;

17 (2) the permit holder fails to submit a required
18 report to the department; or

19 (3) the permit holder intentionally made false claims
20 on the application for the permit.

21 SECTION 8. Subchapter H, Chapter 43, Parks and Wildlife
22 Code, is amended by adding Section 43.1565 to read as follows:

23 Sec. 43.1565. REINSTATEMENT OF PERMIT. The department may
24 reinstate a canceled permit if the permit holder submits an
25 application for reinstatement in the same manner as required by
26 Section 43.153 for an original permit and pays a fee set by the
27 commission.

1 SECTION 9. Section 43.157, Parks and Wildlife Code, is
2 amended by amending Subsection (d) and adding Subsection (e) to
3 read as follows:

4 (d) Except as provided by Subsection (e), a [A] person who
5 violates this section commits an offense that is a Class B Parks and
6 Wildlife Code misdemeanor.

7 (e) A person who violates a reporting requirement adopted
8 under this subchapter commits an offense that is a Class C Parks and
9 Wildlife Code misdemeanor.

10 SECTION 10. Sections 43.153(c) and 43.157(a), Parks and
11 Wildlife Code, are repealed.

12 SECTION 11. (a) The change in law made by this Act applies
13 only to an offense committed on or after the effective date of this
14 Act. For the purpose of this subsection, an offense is committed
15 before the effective date of this Act if any element of the offense
16 occurs before that date. An offense committed before the effective
17 date of this Act is covered by the law in effect when the offense was
18 committed, and the former law is continued in effect for that
19 purpose.

20 (b) The change in law made by this Act applies only to a
21 permit under Subchapter H, Chapter 43, Parks and Wildlife Code,
22 that is issued on or after the effective date of this Act. A permit
23 issued before the effective date of this Act is governed by the law
24 as it existed immediately before the effective date of this Act, and
25 that law is continued in effect for that purpose.

26 SECTION 12. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 1965 was passed by the House on April 23, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1965 on May 21, 2009, by the following vote: Yeas 138, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1965 was passed by the Senate, with amendments, on May 18, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor