

By: Harper-Brown

H.B. No. 3391

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the continuation and functions of the Parks and
3 Wildlife Department; changing the elements of an offense.

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

5 SECTION 1. Section 11.0111, Parks and Wildlife Code, is
6 amended to read as follows:

7 Sec. 11.0111. SUNSET PROVISION. The Parks and Wildlife
8 Department is subject to Chapter 325, Government Code (Texas Sunset
9 Act). Unless continued in existence as provided by that chapter,
10 the department is abolished September 1, 2021 [~~2009~~].

11 SECTION 2. Section 11.012(c), Parks and Wildlife Code, is
12 amended to read as follows:

13 (c) Commission [~~Three commission~~] members must be members
14 of the general public and meet the qualifications provided by
15 Section 11.0121 [~~of this code~~].

16 SECTION 3. Sections 11.0161(a), (b), (c), and (d), Parks
17 and Wildlife Code, are amended to read as follows:

18 (a) The commission shall prepare information of public
19 interest describing the functions of the commission [~~and describing~~
20 ~~the commission's procedures by which complaints are filed with and~~
21 ~~resolved by the commission~~]. The commission shall make the
22 information available to the general public and appropriate state
23 agencies.

24 (b) The department shall maintain a system to promptly and

1 efficiently act on complaints [~~file on each written complaint~~]
2 filed with the department that the department has the authority to
3 resolve. The department shall maintain information about parties
4 to the complaint, the subject matter of the complaint, [~~file must~~
5 ~~include:~~

6 [~~(1) the name of the person who filed the complaint,~~

7 [~~(2) the date the complaint is received by the~~
8 ~~department,~~

9 [~~(3) the subject matter of the complaint,~~

10 [~~(4) the name of each person contacted in relation to~~
11 ~~the complaint,~~

12 [~~(5)] a summary of the results of the review or~~

13 investigation of the complaint, and its disposition [~~and~~

14 [~~(6) an explanation of the reason the file was closed,~~
15 ~~if the department closed the file without taking action other than~~
16 ~~to investigate the complaint].~~

17 (c) The department shall make information available
18 describing its [~~provide to the person filing the complaint and to~~
19 ~~each person who is a subject of the complaint a copy of the~~
20 ~~department's policies and] procedures for [~~relating to~~] complaint
21 investigation and resolution.~~

22 (d) The department [~~at least quarterly until final~~
23 ~~disposition of the complaint,~~] shall periodically notify the
24 [~~person filing the] complaint parties [~~and each person who is a~~
25 ~~subject of the complaint] of the status of the complaint until final
26 disposition [~~investigation unless the notice would jeopardize an~~
27 ~~undercover investigation].~~~~~~

1 SECTION 4. Subchapter B, Chapter 11, Parks and Wildlife
2 Code, is amended by adding Sections 11.0163, 11.0164, and 11.0174
3 to read as follows:

4 Sec. 11.0163. USE OF TECHNOLOGY. The commission shall
5 implement a policy requiring the department to use appropriate
6 technological solutions to improve the department's ability to
7 perform its functions. The policy must ensure that the public is
8 able to interact with the department on the Internet.

9 Sec. 11.0164. NEGOTIATED RULEMAKING AND ALTERNATIVE
10 DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop
11 and implement a policy to encourage the use of:

12 (1) negotiated rulemaking procedures under Chapter
13 2008, Government Code, for the adoption of department rules; and

14 (2) appropriate alternative dispute resolution
15 procedures under Chapter 2009, Government Code, to assist in the
16 resolution of internal and external disputes under the department's
17 jurisdiction.

18 (b) The department's procedures relating to alternative
19 dispute resolution must conform, to the extent possible, to any
20 model guidelines issued by the State Office of Administrative
21 Hearings for the use of alternative dispute resolution by state
22 agencies.

23 (c) The commission shall designate a trained person to:

24 (1) coordinate the implementation of the policy
25 adopted under Subsection (a);

26 (2) serve as a resource for any training needed to
27 implement the procedures for negotiated rulemaking or alternative

1 dispute resolution; and

2 (3) collect data concerning the effectiveness of those
3 procedures, as implemented by the department.

4 Sec. 11.0174. INTERNAL AFFAIRS OFFICE. (a) The executive
5 director shall establish the office of internal affairs.

6 (b) The office of internal affairs has original
7 departmental jurisdiction over all investigations of cases
8 alleging criminal conduct occurring on department property by
9 on-duty department employees or by officers commissioned by the
10 department performing off-duty work related to their official
11 duties. The office shall oversee and review, but need not conduct,
12 all investigations under this section.

13 (c) An investigation under this section may be initiated
14 only by the executive director or the commission.

15 (d) The executive director shall appoint the head of the
16 office of internal affairs. The head of the office of internal
17 affairs serves until removed by the executive director.

18 (e) The head of the office of internal affairs shall:

19 (1) report directly to the executive director
20 regarding performance of and activities related to investigations;

21 (2) report to the executive director for
22 administrative purposes; and

23 (3) provide the executive director or commission with
24 information regarding investigations as appropriate.

25 (f) The head of the office of internal affairs shall present
26 at each regularly scheduled commission meeting and at other
27 appropriate times a summary of information relating to

1 investigations conducted under this section that includes analysis
2 of the number, type, and outcome of investigations, trends in the
3 investigations, and any recommendations to avoid future
4 complaints.

5 SECTION 5. Section 12.0011, Parks and Wildlife Code, is
6 amended by adding Subsections (c) and (d) to read as follows:

7 (c) A local or state agency that receives a department
8 recommendation or informational comment under Subsection (b) shall
9 respond to the department in writing concerning the recommendation
10 or comment. A response must include for each recommendation or
11 comment provided by the department:

12 (1) a description of any modification made to the
13 proposed project, fish and wildlife resource decision, or water
14 flow schedule resulting from the recommendation or comment;

15 (2) any other disposition of the recommendation or
16 comment; and

17 (3) as applicable, any reason the agency disagreed
18 with or did not act on or incorporate the recommendation or comment.

19 (d) A response under Subsection (c) is public information
20 under Chapter 552, Government Code.

21 SECTION 6. Section 66.007, Parks and Wildlife Code, is
22 amended by amending Subsections (b), (c), and (e) and adding
23 Subsections (m), (n), (o), (p), (q), and (r) to read as follows:

24 (b) The department shall publish a list of:

25 (1) exotic fish and exotic~~[r]~~ shellfish~~[r]~~ ~~and aquatic~~
26 ~~plants~~ for which a permit under Subsection (a) [of this section] is
27 required; and

1 (2) exotic aquatic plants, as provided by Subsections
2 (m), (n), (o), (p), (q), and (r), that are approved for importation
3 into or possession in this state without a permit.

4 (c) The department shall make rules to carry out the
5 provisions of this section. The rules that relate to exotic aquatic
6 plants must be as permissive as possible without allowing the
7 importation of plants that pose environmental, economic, or health
8 problems.

9 (e) In this section:

10 (1) "Approved list" means the list published by the
11 department under Subsection (b)(2) of exotic aquatic plants that a
12 person may import into or possess in this state without an exotic
13 species permit issued by the department.

14 (2) "Exotic [~~, exotic fish, shellfish, or~~] aquatic
15 plant" means a nonindigenous [~~fish, shellfish, or~~] aquatic plant
16 that is not normally found in the public water of this [~~the~~] state.

17 (3) "Exotic fish" means a nonindigenous fish that is
18 not normally found in the public water of this state.

19 (4) "Exotic shellfish" means a nonindigenous
20 shellfish that is not normally found in the public water of this
21 state.

22 (m) A person may not import into or possess in this state an
23 exotic aquatic plant unless:

24 (1) the plant is on the approved list; or

25 (2) the person has an exotic species permit issued by
26 the department.

27 (n) In compiling the approved list, the department shall

1 develop a process to evaluate the potential harm that may be caused
2 by the importation of exotic aquatic plant species into this state.

3 The process must include the use of:

4 (1) a risk assessment model to help determine the
5 potential harm of a species to the aquatic environment;

6 (2) published scientific research findings;

7 (3) findings from other regulatory agencies; or

8 (4) scientific analyses from third-party
9 laboratories.

10 (o) The approved list must include an exotic aquatic plant
11 that:

12 (1) is widespread in this state; and

13 (2) is not, as determined by the department, a cause of
14 economic, environmental, or health problems.

15 (p) The commission shall delegate to the executive director
16 authority to develop an expedited process for obtaining approval
17 for inclusion on the approved list of a previously unknown exotic
18 aquatic plant. The commission may remove an exotic aquatic plant
19 from the approved list if the results of further analysis conducted
20 under Subsection (n) indicate that the plant should not be on the
21 list.

22 (q) The commission shall exercise final approval for the
23 inclusion of each plant on the approved list.

24 (r) In accordance with commission rules, the department may
25 issue an exotic species permit to a permit applicant for an exotic
26 aquatic plant not on the approved list if the proposed use of the
27 plant is:

1 (1) as an experimental organism in a medical or other
2 scientific research program approved by the department; or

3 (2) as part of an exhibit approved by the department in
4 a public aquarium or public zoo.

5 SECTION 7. Section 66.0071, Parks and Wildlife Code, is
6 amended to read as follows:

7 Sec. 66.0071. REMOVAL OF HARMFUL AQUATIC PLANTS. On
8 leaving any public or private body of water in this state, a person
9 shall immediately remove and lawfully dispose of any exotic
10 [~~harmful or potentially harmful~~] aquatic plant not included on the
11 approved list published under Section 66.007(b) that is clinging or
12 attached to the person's:

13 (1) vessel or watercraft; or

14 (2) trailer, motor vehicle, or other mobile device
15 used to transport or launch a vessel or watercraft.

16 SECTION 8. Title 6, Parks and Wildlife Code, is amended by
17 adding Chapter 92 to read as follows:

18 CHAPTER 92. INTERSTATE WILDLIFE VIOLATOR COMPACT

19 Sec. 92.001. MEMBERSHIP IN INTERSTATE WILDLIFE VIOLATOR
20 COMPACT. (a) On behalf of this state, the commission may enter
21 into the Interstate Wildlife Violator Compact.

22 (b) If necessary to protect the interests of this state, the
23 commission may withdraw from the Interstate Wildlife Violator
24 Compact in accordance with the terms of the compact.

25 SECTION 9. (a) The department and the Texas Youth
26 Commission jointly shall seek representation by the attorney
27 general to pursue a modification of the terms and purposes of the

1 Parrie Haynes Trust.

2 (b) The legislature intends that a modification of the terms
3 and purposes of the Parrie Haynes Trust be pursued so that:

4 (1) the department may be designated as the state
5 agency responsible for the trust, including all trust property and
6 investments, and rights associated with the trust;

7 (2) control of the Parrie Haynes Ranch may be
8 transferred to the department; and

9 (3) the purposes of the trust may be appropriately
10 expanded to include benefiting disadvantaged and other youths of
11 this state.

12 (c) This section expires on the earlier of:

13 (1) the date a court orders modification of the Parrie
14 Haynes Trust in accordance with this section; or

15 (2) September 1, 2021.

16 SECTION 10. The change in law made by this Act in the
17 qualifications of the members of the Parks and Wildlife Commission
18 does not affect the entitlement of a person serving as a member of
19 the commission immediately before September 1, 2009, to continue to
20 carry out the functions of the person's office for the remainder of
21 the person's term. The change in law applies only to a person
22 appointed on or after September 1, 2009. This Act does not prohibit
23 a person who is a member of the Parks and Wildlife Commission
24 immediately before September 1, 2009, from being reappointed as a
25 commission member if the person has the qualifications required for
26 the position under Chapter 11, Parks and Wildlife Code, as amended
27 by this Act.

1 SECTION 11. The change in law made by this Act to Section
2 11.0161, Parks and Wildlife Code, applies only to a complaint filed
3 with the Parks and Wildlife Commission or the Parks and Wildlife
4 Department on or after September 1, 2009. A complaint filed before
5 September 1, 2009, is governed by the law in effect at the time the
6 complaint was filed, and the former law is continued in effect for
7 that purpose.

8 SECTION 12. Section 12.0011(c), Parks and Wildlife Code, as
9 added by this Act, applies only to a recommendation or
10 informational comment received by a local or state governmental
11 agency from the Parks and Wildlife Department on or after September
12 1, 2009. A recommendation or informational comment received by a
13 local or state governmental agency from the Parks and Wildlife
14 Department before September 1, 2009, is governed by the law in
15 effect at the time the recommendation or informational comment was
16 received, and the former law is continued in effect for that
17 purpose.

18 SECTION 13. (a) Not later than September 1, 2010, the Parks
19 and Wildlife Department shall publish the initial list of approved
20 exotic aquatic plants as provided by Section 66.007(b), Parks and
21 Wildlife Code, as amended by this Act.

22 (b) The Parks and Wildlife Department may not enforce the
23 permit requirements or prohibited actions regarding exotic aquatic
24 plants that are not on the approved list under Section 66.007(b),
25 Parks and Wildlife Code, as amended by this Act, before September 1,
26 2010.

27 (c) The department shall continue to publish a list of

1 harmful or potentially harmful exotic aquatic plants for which,
2 through August 31, 2010, a permit under Section 66.007(a), Parks
3 and Wildlife Code, is required. The department is not required to
4 maintain or publish that list after August 31, 2010.

5 (d) The Parks and Wildlife Department may not enforce the
6 permit requirements or prohibited actions regarding exotic aquatic
7 plants on the list of harmful or potentially harmful plants under
8 Section 66.007, Parks and Wildlife Code, as that section existed
9 before amendment by this Act, on or after September 1, 2010.

10 SECTION 14. This Act takes effect September 1, 2009.