

## **BILL ANALYSIS**

C.S.H.B. 1788  
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Culture, Recreation & Tourism  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that snake collecting along public roadways has been adversely affected by recently passed legislation. These parties contend that snake hunting was permitted and lawfully practiced in many regions of Texas until recently and that these regions experienced significant economic benefit derived from the tourism associated with individuals, known as herpers, searching for or collecting reptiles and amphibians. It has been suggested that legislation is needed to authorize the nonlethal capture of reptiles and amphibians in public rights-of-way if the person capturing the animals possesses, along with a hunting license, a reptile and amphibian stamp issued by the Parks and Wildlife Department. By reinstating the right to collect reptiles and amphibians in a safe and regulated manner, enthusiasts will be able to practice this activity and, in doing so, bring dollars back to Texas' rural communities. C.S.H.B. 1788 seeks to address issues relating to capturing reptiles and amphibians by nonlethal means.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTIONS 1 and 4 of this bill.

### **ANALYSIS**

C.S.H.B. 1788 amends the Parks and Wildlife Code to authorize a person, except as provided by the bill, to capture by nonlethal means an indigenous reptile or amphibian on the shoulder of a road, as defined by state law, or on the unpaved area of a public right-of-way only if the person possesses a reptile and amphibian stamp issued to the person by the Parks and Wildlife Department (TPWD). The bill requires the Parks and Wildlife Commission by rule to prescribe the form, design, and manner of issuance of the stamp; establishes that the stamp is not valid unless the person to whom the stamp is issued has signed the stamp on its face; and authorizes the commission by rule to prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner. The bill establishes that a stamp issued under the bill's provisions is valid only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired and specifies that each yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission.

C.S.H.B. 1788 sets the fee for a reptile and amphibian stamp at \$10 and authorizes TPWD to issue other editions of the stamp that are not valid for capturing by nonlethal means an indigenous reptile or amphibian for a fee set by the commission. The bill specifies that the possession of a reptile and amphibian stamp does not authorize a person to capture by nonlethal means an indigenous reptile or amphibian without possessing a resident or nonresident general hunting license or at a time or by means not otherwise authorized by the Parks and Wildlife Code. The bill requires the net revenue derived from the sale of reptile and amphibian stamps to be credited to the game, fish, and water safety account.

C.S.H.B. 1788 exempts a person from the requirement to have a hunting license or reptile and

amphibian stamp to capture by nonlethal means and subsequently release in another location an indigenous reptile or amphibian if the person is performing activities related to oil or gas exploration or production or the person is an employee of a utility, as defined by state law, and is acting in the course and scope of that employment. The bill makes it a Class C Parks and Wildlife Code misdemeanor offense to violate the reptile and amphibian stamp requirement and establishes that a person, other than a person exempted from that requirement, in an area described under the bill's provisions who is engaged in capturing by nonlethal means an indigenous reptile or amphibian and who fails or refuses on the demand of any game warden or other peace officer to show such a stamp is presumed to be in violation of the requirement.

C.S.H.B. 1788 authorizes a person to capture by nonlethal means reptiles and amphibians on the shoulder of a road, as defined by state law, or on the unpaved area of a public right-of-way if the person possesses a reptile and amphibian stamp issued to the person by TPWD and does not use a trap or if the person is performing activities related to oil or gas exploration or production or is an employee of a utility and is acting in the course and scope of that employment. The bill requires a person to wear reflective clothing when engaging in the capture by nonlethal means of a reptile or amphibian under a stamp issued by TPWD and requires the clothing to have at least 144 square inches of reflective material on both the front and back of the clothing.

C.S.H.B. 1788 exempts a person engaging in the capture by nonlethal means of a reptile or amphibian under a stamp issued by TPWD from the prohibition against hunting certain wild animals at any season of the year between one-half hour after sunset and one-half hour before sunrise. The bill makes conforming changes.

C.S.H.B. 1788 requires the commission, not later than March 1, 2012, to adopt rules to implement the changes in law made by the bill's provisions and to adopt the form, design, and manner of issuance of, and the fee for, the reptile and amphibian stamp. The bill establishes that the initial reptile and amphibian stamps issued are valid for the period beginning the date the stamps first become available and ending on the expiration of the first yearly period set by the commission under the bill's provisions and requires the initial stamps to be issued for a fee equal to the yearly fee, plus a prorated amount for the period beginning the date the stamps first become available and ending on the day preceding the date the first yearly period begins.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1788 differs from the original by specifying that the authorization for a person to capture by nonlethal means an indigenous reptile or amphibian only if the person possesses a reptile and amphibian stamp issued to the person by the Texas Parks and Wildlife Department (TPWD) applies to such capture on the shoulder of a road or on the unpaved area of a public right-of-way, whereas the original does not specify locations where such a capture is authorized to take place.

C.S.H.B. 1788 differs from the original by setting the fee for a reptile and amphibian stamp at \$10, whereas the original sets the fee at \$10 or a greater amount set by the commission.

C.S.H.B. 1788 contains a provision not included in the original exempting a person from the requirement to have a hunting license or reptile and amphibian stamp to capture by nonlethal means and subsequently release in another location an indigenous reptile or amphibian if the person is performing activities related to oil or gas exploration or production or the person is an employee of a utility and is acting in the course and scope of that employment.

C.S.H.B. 1788 differs from the original by including among the conditions under which a person

is authorized to capture reptiles and amphibians by nonlethal means as an exception to the prohibition against hunting a wild animal on a public road or right-of-way the condition that the person is performing activities related to oil or gas exploration or production or the person is an employee of a utility and is acting in the course and scope of that employment, whereas the original does not include that condition. The substitute differs from the original by specifying in that same provision that the authorization applies to such capture on the shoulder of a road or the unpaved area of the right-of-way, whereas the original specifies that the authorization applies to such capture on a public right-of-way.

C.S.H.B. 1788 differs from the original by specifying that the reflective clothing required to be worn by a person engaging in the capture by nonlethal means of a reptile or amphibian under a stamp issued by TPWD have a minimum amount of reflective material on both the front and back of the clothing, whereas the original does not include such a requirement, and by omitting the specification included in the original that the reflective clothing be worn at night or during periods of reduced visibility.