

By: Phillips

H.B. No. 1026

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the review, notice, and hearing requirements associated
3 with certain deer permits.

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

5 SECTION 1. Section 12.501(b), Parks and Wildlife Code, is
6 amended to read as follows:

7 (b) Except as provided by Subchapter G, the ~~[The]~~ director
8 may suspend or revoke an original or renewal permit or license
9 issued under this code if it is found, after notice and hearing,
10 that:

11 (1) the permittee or licensee has been finally
12 convicted of a violation of this code or proclamation or regulation
13 adopted under this code relating to the permit or license to be
14 suspended or revoked;

15 (2) the permittee or licensee violated a provision of
16 this code or proclamation or regulation adopted under this code
17 relating to the permit or license to be suspended or revoked;

18 (3) the permittee or licensee made a false or
19 misleading statement in connection with the permittee's or
20 licensee's ~~[his]~~ original or renewal application, either in the
21 formal application itself or in any other written instrument
22 relating to the application submitted to the commission or its
23 officers or employees;

24 (4) the permittee or licensee is indebted to the state

1 for taxes, fees, or payment of penalties imposed by this code or by
2 a commission rule relating to a permit or license to be suspended or
3 revoked; or

4 (5) the permittee or licensee is liable to the state
5 under Section 12.301.

6 SECTION 2. Section 12.506, Parks and Wildlife Code, is
7 amended by adding Subsection (c) to read as follows:

8 (c) This section does not apply to a permit to which
9 Subchapter G applies.

10 SECTION 3. Section 12.508(b), Parks and Wildlife Code, is
11 amended to read as follows:

12 (b) Except as provided by Subchapter G, the [The] department
13 may refuse to issue or transfer an original or renewal license,
14 permit, or tag if the applicant or transferee:

15 (1) has been finally convicted of a violation under
16 this code or a rule adopted or a proclamation issued under this
17 code;

18 (2) is liable to the state under Section 12.301; and

19 (3) has failed to fully pay the amount due under
20 Section 12.301 after the department has issued notice of liability
21 to the applicant or transferee.

22 SECTION 4. Chapter 12, Parks and Wildlife Code, is amended
23 by adding Subchapter G to read as follows:

24 SUBCHAPTER G. REVOCATION, SUSPENSION, OR REFUSAL OF CERTAIN
25 PERMITS RELATING TO THE CONTROL, BREEDING, OR MANAGEMENT OF DEER

26 Sec. 12.601. APPLICABILITY OF SUBCHAPTER. This subchapter
27 applies to the following permits:

1 (1) a trap, transport, and transplant permit under
2 Section 43.061 or 43.0611;

3 (2) a trap, transport, and process permit under
4 Section 43.0612;

5 (3) a deer breeder's permit under Subchapter L,
6 Chapter 43;

7 (4) a deer management permit under Subchapter R,
8 Chapter 43; and

9 (5) any other permit related to the control, breeding,
10 or management of deer in this state.

11 Sec. 12.602. REVOCATION, SUSPENSION, OR REFUSAL OF PERMIT.

12 (a) In this subchapter:

13 (1) "Finally convicted" includes a final judgment of
14 guilt, deferred adjudication, or a plea of guilty, but does not
15 include a plea of nolo contendere.

16 (2) "Permittee" has the meaning assigned by Section
17 12.501(a).

18 (b) The director may suspend or revoke a permit to which
19 this subchapter applies, or may refuse an application to renew a
20 permit to which this subchapter applies, after notice and hearing
21 as provided by Section 12.502 and after considering:

22 (1) whether the permittee or applicant has been
23 previously finally convicted of an offense that is a violation of
24 this code or a proclamation issued or a regulation adopted under
25 this code relating to the permit to be suspended, revoked, or
26 refused, the seriousness of the previous offense, and whether the
27 offense was the result of negligence or criminal intent;

1 (2) any threat to the public safety posed by the
2 permittee or applicant;

3 (3) whether the permittee or applicant made a false or
4 misleading statement in connection with the permittee's or
5 applicant's original or renewal application, including in the
6 application form and in any other written instrument relating to
7 the application submitted to the commission or its officers or
8 employees;

9 (4) whether the permittee or applicant is indebted to
10 the state for taxes, fees, or payment of penalties imposed by this
11 code or by a commission rule relating to the permit to be suspended,
12 revoked, or refused;

13 (5) whether the permittee or applicant is liable to
14 the state under Section 12.301; and

15 (6) any mitigating factors.

16 Sec. 12.603. APPEAL FROM REVOCATION, SUSPENSION, OR REFUSAL
17 OF PERMIT. (a) Venue for an appeal from an order of the department
18 refusing to renew a permit or revoking or suspending a permit to
19 which this subchapter applies is a district court in:

20 (1) the county where the permitted facility, if
21 applicable, is located; or

22 (2) the county where the permittee resides.

23 (b) The appeal shall be by trial de novo.

24 SECTION 5. Subchapter L, Chapter 43, Parks and Wildlife
25 Code, is amended by adding Section 43.370 to read as follows:

26 Sec. 43.370. NOTICE OF DEPARTMENT DESTRUCTION OR REMOVAL OF
27 DEER. (a) The department must provide notice to a permittee before

1 the department destroys or removes any breeder deer from a facility
2 permitted under this subchapter.

3 (b) A notice provided under this section must be sent by
4 certified mail to the last known address of the permittee and must
5 contain:

6 (1) a short statement identifying the specific deer to
7 be destroyed or removed;

8 (2) the date of destruction or removal, which may not
9 be sooner than the 10th day after the date of the notice; and

10 (3) a detailed explanation of the reasons for the
11 destruction or removal.

12 SECTION 6. Subchapter R, Chapter 43, Parks and Wildlife
13 Code, is amended by adding Section 43.6055 to read as follows:

14 Sec. 43.6055. NOTICE OF DEPARTMENT DESTRUCTION OR REMOVAL
15 OF DEER. (a) The department must provide notice to a permit holder
16 before the department destroys or removes any deer from the acreage
17 covered by the permit.

18 (b) A notice provided under this section must be sent by
19 certified mail to the last known address of the permit holder and
20 must contain:

21 (1) a short statement identifying the specific deer to
22 be destroyed or removed;

23 (2) the date of destruction or removal, which may not
24 be sooner than the 10th day after the date of the notice; and

25 (3) a detailed explanation of the reasons for the
26 destruction or removal.

27 SECTION 7. The changes in law made by this Act apply only to

1 a permit to which Subchapter G, Chapter 12, Parks and Wildlife Code,
2 as added by this Act, applies that is issued or renewed on or after
3 the effective date of this Act. A permit issued or renewed before
4 the effective date of this Act is governed by the law as it existed
5 immediately before the effective date of this Act, and that law is
6 continued in effect for that purpose.

7 SECTION 8. This Act takes effect September 1, 2011.