

1 AN ACT

2 relating to capturing reptiles and amphibians by nonlethal means;  
3 providing a penalty.

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

5 SECTION 1. Chapter 43, Parks and Wildlife Code, is amended  
6 by adding Subchapter W to read as follows:

7 SUBCHAPTER W. REPTILE AND AMPHIBIAN STAMP

8 Sec. 43.901. REPTILE AND AMPHIBIAN STAMP REQUIRED. (a)

9 Except as provided by Section 43.905, a person may capture by  
10 nonlethal means an indigenous reptile or amphibian on the shoulder  
11 of a road, as defined by Section 541.302, Transportation Code, or  
12 the unpaved area of a public right-of-way only if the person  
13 possesses a reptile and amphibian stamp issued to the person by the  
14 department.

15 (b) The commission by rule shall prescribe the form, design,  
16 and manner of issuance of a stamp under this subchapter.

17 (c) The stamp is not valid unless the person to whom the  
18 stamp is issued has signed the stamp on its face.

19 (d) The commission by rule may prescribe alternate  
20 requirements for identifying the purchaser of a stamp issued in an  
21 automated manner.

22 (e) A stamp issued under this subchapter is valid only  
23 during the yearly period for which the stamp is issued without  
24 regard to the date on which the stamp is acquired. Each yearly

1 period begins on September 1 or another date set by the commission  
2 and extends through August 31 of the next year or another date set  
3 by the commission.

4 Sec. 43.902. FEE. The fee for a reptile and amphibian stamp  
5 is \$10. The department may issue other editions of the stamp that  
6 are not valid for capturing by nonlethal means a species covered by  
7 this subchapter for a fee set by the commission.

8 Sec. 43.903. HUNTING LICENSE REQUIRED. The possession of a  
9 reptile and amphibian stamp does not authorize a person to capture  
10 by nonlethal means an indigenous reptile or amphibian:

11 (1) without possessing a hunting license required by  
12 Section 42.002 or 42.005; or

13 (2) at a time or by means not otherwise authorized by  
14 this code.

15 Sec. 43.904. STAMP SALE RECEIPTS. The net revenue derived  
16 from the sale of reptile and amphibian stamps shall be credited to  
17 the game, fish, and water safety account.

18 Sec. 43.905. EXEMPTIONS. A person is not required to have a  
19 hunting license or reptile and amphibian stamp to capture by  
20 nonlethal means and subsequently release in another location an  
21 indigenous reptile or amphibian if the person is:

22 (1) performing activities related to the operation and  
23 maintenance of pipelines and related facilities or to oil or gas  
24 exploration or production;

25 (2) an employee of the state, a utility, as defined by  
26 Section 203.091, Transportation Code, or a power generation  
27 company, as defined by Section 31.002, Utilities Code, and is

1 acting in the course and scope of the person's employment with the  
2 state, the utility, or the power generation company; or

3 (3) performing activities related to surface coal  
4 mining and reclamation operations as defined by Section 134.004,  
5 Natural Resources Code.

6 Sec. 43.906. PENALTY. (a) A person who violates Section  
7 43.901 commits an offense that is a Class C Parks and Wildlife Code  
8 misdemeanor.

9 (b) A person, other than a person described by Section  
10 43.905, in an area described by Section 43.901 who is engaged in  
11 capturing by nonlethal means a species covered by this subchapter  
12 and fails or refuses on the demand of any game warden or other peace  
13 officer to show a reptile and amphibian stamp is presumed to be in  
14 violation of Section 43.901.

15 SECTION 2. Section 62.0031, Parks and Wildlife Code, is  
16 amended by amending Subsection (a) and adding Subsections (c), (d),  
17 and (e) to read as follows:

18 (a) Except as provided by Subsections [~~Subsection~~] (b) and  
19 (c), a person may not hunt a wild animal or bird when the person is  
20 on a public road or right-of-way.

21 (c) A person may capture by nonlethal means reptiles and  
22 amphibians on the shoulder of a road, as defined by Section 541.302,  
23 Transportation Code, or the unpaved area of a public right-of-way  
24 if the person:

25 (1) possesses a reptile and amphibian stamp issued to  
26 the person by the department and does not use a trap; or

27 (2) is described by Section 43.905.

1       (d) A person must wear reflective clothing when engaging in  
2 the capture by nonlethal means of a reptile or amphibian under a  
3 stamp issued by the department. The clothing must have at least 144  
4 square inches of reflective material on both the front and back of  
5 the clothing.

6       (e) A person may not use an artificial light from a motor  
7 vehicle in locating, capturing, or attempting to capture a reptile  
8 or amphibian under Subsection (c).

9       SECTION 3. (a) Not later than March 1, 2012, the Parks and  
10 Wildlife Commission shall adopt:

11           (1) rules to implement the changes in law made by this  
12 Act; and

13           (2) the form, design, and manner of issuance of, and  
14 the fee for, a reptile and amphibian stamp under Subchapter W,  
15 Chapter 43, Parks and Wildlife Code, as added by this Act.

16       (b) Notwithstanding Sections 43.901(e) and 43.902, Parks  
17 and Wildlife Code, as added by this Act, the initial reptile and  
18 amphibian stamps issued under Subchapter W, Chapter 43, Parks and  
19 Wildlife Code:

20           (1) are valid for the period beginning the date the  
21 stamps first become available and ending on the expiration of the  
22 first yearly period set by the Parks and Wildlife Commission under  
23 Section 43.901(e); and

24           (2) shall be issued for a fee equal to the yearly fee,  
25 plus a prorated amount for the period beginning the date the stamps  
26 first become available and ending on the day preceding the date the  
27 first yearly period begins.

1           SECTION 4. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2011.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1788 was passed by the House on May 6, 2011, by the following vote: Yeas 108, Nays 31, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1788 on May 26, 2011, by the following vote: Yeas 96, Nays 47, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1788 was passed by the Senate, with amendments, on May 24, 2011, by the following vote: Yeas 23, Nays 8.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor