

By: Farias, King of Zavala, Bohac, Gallego

H.B. No. 1788

Substitute the following for H.B. No. 1788:

By: Guillen

C.S.H.B. No. 1788

A BILL TO BE ENTITLED

AN ACT

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

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

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

SUBCHAPTER W. REPTILE AND AMPHIBIAN STAMP

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

Except as provided by Section 43.905, a person may capture by
nonlethal means an indigenous reptile or amphibian on the shoulder
of a road, as defined by Section 541.302, Transportation Code, or
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
department.

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

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

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

(e) A stamp issued under this subchapter is valid only
during the yearly period for which the stamp is issued without
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 oil or gas
23 exploration or production; or

24 (2) an employee of a utility, as defined by Section
25 203.091, Transportation Code, and is acting in the course and scope
26 of that employment.

27 Sec. 43.906. PENALTY. (a) A person who violates Section

1 43.901 commits an offense that is a Class C Parks and Wildlife Code
2 misdemeanor.

3 (b) A person, other than a person described by Section
4 43.905, in an area described by Section 43.901 who is engaged in
5 capturing by nonlethal means a species covered by this subchapter
6 and fails or refuses on the demand of any game warden or other peace
7 officer to show a reptile and amphibian stamp is presumed to be in
8 violation of Section 43.901.

9 SECTION 2. Section 62.0031, Parks and Wildlife Code, is
10 amended by amending Subsection (a) and adding Subsections (c) and
11 (d) to read as follows:

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

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

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

21 (2) is described by Section 43.905.

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

27 SECTION 3. Section 62.004, Parks and Wildlife Code, is

1 amended to read as follows:

2 Sec. 62.004. HUNTING AT NIGHT. (a) No person may hunt any
3 wild bird, wild game bird, wild fowl, or wild game animal protected
4 by this code at any season of the year between one-half hour after
5 sunset and one-half hour before sunrise.

6 (b) Subsection (a) does not apply to a person engaging in
7 the capture by nonlethal means of a reptile or amphibian under a
8 stamp issued by the department.

9 SECTION 4. (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 5. 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.