

1-1 By: Farias, et al. (Senate Sponsor - Uresti) H.B. No. 1788
1-2 (In the Senate - Received from the House May 9, 2011;
1-3 May 10, 2011, read first time and referred to Committee on
1-4 Agriculture and Rural Affairs; May 20, 2011, rereferred to
1-5 Committee on International Relations and Trade; May 23, 2011,
1-6 reported adversely, with favorable Committee Substitute by the
1-7 following vote: Yeas 4, Nays 1; May 23, 2011, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 1788 By: Davis

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to capturing reptiles and amphibians by nonlethal means;
1-12 providing a penalty.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Chapter 43, Parks and Wildlife Code, is amended
1-15 by adding Subchapter W to read as follows:

1-16 SUBCHAPTER W. REPTILE AND AMPHIBIAN STAMP

1-17 Sec. 43.901. REPTILE AND AMPHIBIAN STAMP REQUIRED.

1-18 (a) Except as provided by Section 43.905, a person may capture by
1-19 nonlethal means an indigenous reptile or amphibian on the shoulder
1-20 of a road, as defined by Section 541.302, Transportation Code, or
1-21 the unpaved area of a public right-of-way only if the person
1-22 possesses a reptile and amphibian stamp issued to the person by the
1-23 department.

1-24 (b) The commission by rule shall prescribe the form, design,
1-25 and manner of issuance of a stamp under this subchapter.

1-26 (c) The stamp is not valid unless the person to whom the
1-27 stamp is issued has signed the stamp on its face.

1-28 (d) The commission by rule may prescribe alternate
1-29 requirements for identifying the purchaser of a stamp issued in an
1-30 automated manner.

1-31 (e) A stamp issued under this subchapter is valid only
1-32 during the yearly period for which the stamp is issued without
1-33 regard to the date on which the stamp is acquired. Each yearly
1-34 period begins on September 1 or another date set by the commission
1-35 and extends through August 31 of the next year or another date set
1-36 by the commission.

1-37 Sec. 43.902. FEE. The fee for a reptile and amphibian stamp
1-38 is \$10. The department may issue other editions of the stamp that
1-39 are not valid for capturing by nonlethal means a species covered by
1-40 this subchapter for a fee set by the commission.

1-41 Sec. 43.903. HUNTING LICENSE REQUIRED. The possession of a
1-42 reptile and amphibian stamp does not authorize a person to capture
1-43 by nonlethal means an indigenous reptile or amphibian:

1-44 (1) without possessing a hunting license required by
1-45 Section 42.002 or 42.005; or

1-46 (2) at a time or by means not otherwise authorized by
1-47 this code.

1-48 Sec. 43.904. STAMP SALE RECEIPTS. The net revenue derived
1-49 from the sale of reptile and amphibian stamps shall be credited to
1-50 the game, fish, and water safety account.

1-51 Sec. 43.905. EXEMPTIONS. A person is not required to have a
1-52 hunting license or reptile and amphibian stamp to capture by
1-53 nonlethal means and subsequently release in another location an
1-54 indigenous reptile or amphibian if the person is:

1-55 (1) performing activities related to the operation and
1-56 maintenance of pipelines and related facilities or to oil or gas
1-57 exploration or production;

1-58 (2) an employee of the state, a utility, as defined by
1-59 Section 203.091, Transportation Code, or a power generation
1-60 company, as defined by Section 31.002, Utilities Code, and is
1-61 acting in the course and scope of the person's employment with the
1-62 state, the utility, or the power generation company; or

1-63 (3) performing activities related to surface coal

2-1 mining and reclamation operations as defined by Section 134.004,
2-2 Natural Resources Code.

2-3 Sec. 43.906. PENALTY. (a) A person who violates Section
2-4 43.901 commits an offense that is a Class C Parks and Wildlife Code
2-5 misdemeanor.

2-6 (b) A person, other than a person described by Section
2-7 43.905, in an area described by Section 43.901 who is engaged in
2-8 capturing by nonlethal means a species covered by this subchapter
2-9 and fails or refuses on the demand of any game warden or other peace
2-10 officer to show a reptile and amphibian stamp is presumed to be in
2-11 violation of Section 43.901.

2-12 SECTION 2. Section 62.0031, Parks and Wildlife Code, is
2-13 amended by amending Subsection (a) and adding Subsections (c), (d),
2-14 and (e) to read as follows:

2-15 (a) Except as provided by Subsections [Subsection] (b) and
2-16 (c), a person may not hunt a wild animal or bird when the person is
2-17 on a public road or right-of-way.

2-18 (c) A person may capture by nonlethal means reptiles and
2-19 amphibians on the shoulder of a road, as defined by Section 541.302,
2-20 Transportation Code, or the unpaved area of a public right-of-way
2-21 if the person:

2-22 (1) possesses a reptile and amphibian stamp issued to
2-23 the person by the department and does not use a trap; or

2-24 (2) is described by Section 43.905.

2-25 (d) A person must wear reflective clothing when engaging in
2-26 the capture by nonlethal means of a reptile or amphibian under a
2-27 stamp issued by the department. The clothing must have at least 144
2-28 square inches of reflective material on both the front and back of
2-29 the clothing.

2-30 (e) A person may not use a spotlight from a motor vehicle in
2-31 capturing a reptile or amphibian under Subsection (c).

2-32 SECTION 3. (a) Not later than March 1, 2012, the Parks and
2-33 Wildlife Commission shall adopt:

2-34 (1) rules to implement the changes in law made by this
2-35 Act; and

2-36 (2) the form, design, and manner of issuance of, and
2-37 the fee for, a reptile and amphibian stamp under Subchapter W,
2-38 Chapter 43, Parks and Wildlife Code, as added by this Act.

2-39 (b) Notwithstanding Sections 43.901(e) and 43.902, Parks
2-40 and Wildlife Code, as added by this Act, the initial reptile and
2-41 amphibian stamps issued under Subchapter W, Chapter 43, Parks and
2-42 Wildlife Code:

2-43 (1) are valid for the period beginning the date the
2-44 stamps first become available and ending on the expiration of the
2-45 first yearly period set by the Parks and Wildlife Commission under
2-46 Section 43.901(e); and

2-47 (2) shall be issued for a fee equal to the yearly fee,
2-48 plus a prorated amount for the period beginning the date the stamps
2-49 first become available and ending on the day preceding the date the
2-50 first yearly period begins.

2-51 SECTION 4. This Act takes effect immediately if it receives
2-52 a vote of two-thirds of all the members elected to each house, as
2-53 provided by Section 39, Article III, Texas Constitution. If this
2-54 Act does not receive the vote necessary for immediate effect, this
2-55 Act takes effect September 1, 2011.

2-56 * * * * *