

1-1 By: Jackson, Nichols S.B. No. 252
1-2 (In the Senate - Filed December 9, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Agriculture and Rural
1-4 Affairs; April 7, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;
1-6 April 7, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 252 By: Estes

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to procedures relating to the issuance and renewal of, and
1-11 certain notice requirements associated with, certain deer permits.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (b), Section 12.501, Parks and
1-14 Wildlife Code, is amended to read as follows:

1-15 (b) Except as provided by Subchapter G, the [The] director
1-16 may suspend or revoke an original or renewal permit or license
1-17 issued under this code if it is found, after notice and hearing,
1-18 that:

1-19 (1) the permittee or licensee has been finally
1-20 convicted of a violation of this code or proclamation or regulation
1-21 adopted under this code relating to the permit or license to be
1-22 suspended or revoked;

1-23 (2) the permittee or licensee violated a provision of
1-24 this code or proclamation or regulation adopted under this code
1-25 relating to the permit or license to be suspended or revoked;

1-26 (3) the permittee or licensee made a false or
1-27 misleading statement in connection with the permittee's or
1-28 licensee's [his] original or renewal application, either in the
1-29 formal application itself or in any other written instrument
1-30 relating to the application submitted to the commission or its
1-31 officers or employees;

1-32 (4) the permittee or licensee is indebted to the state
1-33 for taxes, fees, or payment of penalties imposed by this code or by
1-34 a commission rule relating to a permit or license to be suspended or
1-35 revoked; or

1-36 (5) the permittee or licensee is liable to the state
1-37 under Section 12.301.

1-38 SECTION 2. Section 12.506, Parks and Wildlife Code, is
1-39 amended by adding Subsection (c) to read as follows:

1-40 (c) This section does not apply to a permit to which
1-41 Subchapter G applies.

1-42 SECTION 3. Subsection (b), Section 12.508, Parks and
1-43 Wildlife Code, is amended to read as follows:

1-44 (b) Except as provided by Subchapter G, the [The] department
1-45 may refuse to issue or transfer an original or renewal license,
1-46 permit, or tag if the applicant or transferee:

1-47 (1) has been finally convicted of a violation under
1-48 this code or a rule adopted or a proclamation issued under this
1-49 code;

1-50 (2) is liable to the state under Section 12.301; and

1-51 (3) has failed to fully pay the amount due under
1-52 Section 12.301 after the department has issued notice of liability
1-53 to the applicant or transferee.

1-54 SECTION 4. Chapter 12, Parks and Wildlife Code, is amended
1-55 by adding Subchapter G to read as follows:

1-56 SUBCHAPTER G. REFUSAL TO ISSUE OR RENEW AND APPEAL OF CERTAIN
1-57 DECISIONS REGARDING CERTAIN PERMITS RELATING TO THE CONTROL,
1-58 BREEDING, OR MANAGEMENT OF DEER

1-59 Sec. 12.601. APPLICABILITY OF SUBCHAPTER. This subchapter
1-60 applies only to the following permits:

1-61 (1) a trap, transport, and transplant permit under
1-62 Section 43.061 or 43.0611;

1-63 (2) a trap, transport, and process permit under

2-1 Section 43.0612;
2-2 (3) a deer breeder's permit under Subchapter L,
2-3 Chapter 43; and
2-4 (4) a deer management permit under Subchapter R,
2-5 Chapter 43.
2-6 Sec. 12.602. DEFINITIONS. In this subchapter:
2-7 (1) "Applicant" means a person who has applied for a
2-8 new or renewal permit.
2-9 (2) "Final conviction" means a final judgment of
2-10 guilt, the granting of deferred adjudication or pretrial diversion,
2-11 or the entering of a plea of guilty or nolo contendere.
2-12 (3) "Permittee" means a person to whom a permit has
2-13 been issued, including each member of a partnership or association,
2-14 an agent acting on behalf of a partnership or association, each
2-15 officer of a corporation, and the owner of a majority of a
2-16 corporation's corporate stock.
2-17 Sec. 12.603. GENERAL CIRCUMSTANCES FOR REFUSAL TO ISSUE OR
2-18 RENEW PERMIT. The department may refuse to issue or renew a permit
2-19 if the applicant fails to submit in a timely manner the following:
2-20 (1) a completed application on a form supplied by the
2-21 department and all application materials required by the
2-22 department;
2-23 (2) the required permit fee;
2-24 (3) accurate reports as applicable; and
2-25 (4) any additional information that the department
2-26 determines is necessary to process the application.
2-27 Sec. 12.604. REFUSAL TO ISSUE OR RENEW PERMIT BASED ON
2-28 CERTAIN CONVICTIONS. (a) This section applies only to a
2-29 determination of whether to issue a permit to or renew a permit for
2-30 an applicant who has a final conviction for a violation of:
2-31 (1) Subchapter C, E, L, or R, Chapter 43;
2-32 (2) a provision of this code not described by
2-33 Subdivision (1) that is punishable as a Class A or B Parks and
2-34 Wildlife Code misdemeanor, a Parks and Wildlife Code state jail
2-35 felony, or a Parks and Wildlife Code felony;
2-36 (3) Section 63.002; or
2-37 (4) the Lacey Act Amendments of 1981 (16 U.S.C.
2-38 Sections 3371-3378).
2-39 (b) In determining whether to issue a permit to or renew a
2-40 permit for an applicant with a final conviction, the department
2-41 shall consider:
2-42 (1) the number of convictions and the seriousness of
2-43 each conviction;
2-44 (2) the existence, number, and seriousness of offenses
2-45 or violations other than offenses or violations that resulted in a
2-46 final conviction described by Subsection (a);
2-47 (3) the length of time between the most recent final
2-48 conviction and the permit application;
2-49 (4) whether the final conviction or other offense or
2-50 violation was the result of negligence or intentional conduct;
2-51 (5) the applicant's efforts toward rehabilitation;
2-52 (6) the accuracy of the permit history information
2-53 provided by the applicant; and
2-54 (7) other mitigating factors.
2-55 Sec. 12.605. PROCEDURE FOR REFUSAL TO ISSUE OR RENEW
2-56 PERMIT. (a) Not later than the 10th day after the date a decision
2-57 to refuse to issue or renew a permit has been made, the department
2-58 shall provide to the applicant a written statement of the reasons
2-59 for the decision.
2-60 (b) The commission by rule shall adopt procedures
2-61 consistent with this subchapter for the department's review of a
2-62 refusal to issue or renew a permit.
2-63 Sec. 12.606. REVIEW OF REFUSAL TO ISSUE OR RENEW PERMIT. In
2-64 conducting a review of a decision by the department to refuse to
2-65 issue or renew a permit, the department shall consider:
2-66 (1) whether the conduct on which the refusal is based
2-67 was negligent or intentional;
2-68 (2) for a refusal based on conduct that is a violation
2-69 of a provision listed in Section 12.604(a), whether the applicant

- 3-1 has a final conviction based on the conduct;
- 3-2 (3) the seriousness of an offense described by
- 3-3 Subdivision (2) for which the applicant was finally convicted;
- 3-4 (4) whether the conduct on which the refusal was based
- 3-5 was committed or omitted by the applicant, an agent of the
- 3-6 applicant, or both;
- 3-7 (5) for a renewal, whether the applicant agreed to any
- 3-8 special conditions recommended by the department in lieu of a
- 3-9 decision to refuse to issue or renew the expiring permit;
- 3-10 (6) whether there is a substantial likelihood that the
- 3-11 applicant would repeat the conduct on which the refusal is based;
- 3-12 (7) whether the conduct on which the refusal is based
- 3-13 involved a threat to public safety; and
- 3-14 (8) other mitigating factors.

3-15 Sec. 12.607. APPEAL OF DEPARTMENT DECISION TO REVOKE,
 3-16 SUSPEND, OR REFUSE PERMIT. (a) Except as provided by this
 3-17 section, the revocation or suspension of a permit is governed by
 3-18 Subchapter F.

3-19 (b) Venue for an appeal from a decision of the department
 3-20 refusing to issue or renew a permit or revoking or suspending a
 3-21 permit is a district court in:

3-22 (1) the county where the permitted facility, if
 3-23 applicable, is located;

3-24 (2) the county where the permittee resides; or

3-25 (3) Travis County.

3-26 (c) The appeal shall be by trial de novo.

3-27 SECTION 5. Subchapter L, Chapter 43, Parks and Wildlife
 3-28 Code, is amended by adding Section 43.370 to read as follows:

3-29 Sec. 43.370. NOTICE OF DEPARTMENT DESTRUCTION OR REMOVAL OF
 3-30 DEER. (a) The department must provide notice to a deer breeder

3-31 before the department destroys or removes any breeder deer from a
 3-32 facility permitted under this subchapter.

3-33 (b) A notice provided under this section must be sent by
 3-34 certified mail to the last known address of the deer breeder and
 3-35 must contain:

3-36 (1) a short statement identifying the deer to be
 3-37 destroyed or removed;

3-38 (2) the approximate date of destruction or removal,
 3-39 which may not be sooner than the 10th day after the date of the
 3-40 notice; and

3-41 (3) the reasons for the destruction or removal.

3-42 SECTION 6. Subchapter R, Chapter 43, Parks and Wildlife
 3-43 Code, is amended by adding Section 43.6055 to read as follows:

3-44 Sec. 43.6055. NOTICE OF DEPARTMENT DESTRUCTION OR REMOVAL
 3-45 OF DEER. (a) The department must provide notice to a permit holder

3-46 before the department destroys or removes any deer from the acreage
 3-47 covered by the permit.

3-48 (b) A notice provided under this section must be sent by
 3-49 certified mail to the last known address of the permit holder and
 3-50 must contain:

3-51 (1) a short statement identifying the deer to be
 3-52 destroyed or removed;

3-53 (2) the approximate date of destruction or removal,
 3-54 which may not be sooner than the 10th day after the date of the
 3-55 notice; and

3-56 (3) the reasons for the destruction or removal.

3-57 SECTION 7. (a) Except as provided by Subsection (b) of
 3-58 this section, the changes in law made by this Act apply only to a
 3-59 permit to which Subchapter G, Chapter 12, Parks and Wildlife Code,
 3-60 as added by this Act, applies that is issued or renewed on or after
 3-61 the effective date of this Act. A permit issued or renewed before
 3-62 the effective date of this Act is governed by the law as it existed
 3-63 immediately before the effective date of this Act, and that law is
 3-64 continued in effect for that purpose.

3-65 (b) Section 12.607, Parks and Wildlife Code, as added by
 3-66 this Act, applies only to an appeal from a decision of the Parks and
 3-67 Wildlife Department refusing to issue or renew a permit or revoking
 3-68 or suspending a permit that is filed on or after the effective date
 3-69 of this Act. An appeal filed before the effective date of this Act

4-1 is governed by the law in effect on the date the appeal was filed,
4-2 and that law is continued in effect for that purpose.

4-3 SECTION 8. This Act takes effect September 1, 2011.

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