

By: Hegar

S.B. No. 1480

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of exotic aquatic species by the Parks and Wildlife Department; providing penalties.

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

SECTION 1. The heading to Chapter 66, Parks and Wildlife Code, is amended to read as follows:

CHAPTER 66. FISH AND AQUATIC PLANTS

SECTION 2. The heading to Subchapter A, Chapter 66, Parks and Wildlife Code, is amended to read as follows:

SUBCHAPTER A. PROVISIONS APPLICABLE TO FRESHWATER AND SALTWATER

FISHING AND AQUATIC PLANTS

SECTION 3. The heading to Section 66.007, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.007. EXOTIC HARMFUL OR POTENTIALLY HARMFUL FISH AND [~~7~~] SHELLFISH [~~7~~ ~~AND AQUATIC PLANTS~~].

SECTION 4. Sections 66.007(a), (b), (c), (e), (j), (k), and (l), Parks and Wildlife Code, are amended to read as follows:

(a) No person may import, possess, sell, or place into the public water of this state exotic harmful or potentially harmful fish or [~~7~~] shellfish [~~7~~ ~~or aquatic plants~~] except as authorized by rule or permit issued by the department.

(b) The department shall publish a list of [~~+~~ [~~(1)~~] exotic fish and exotic shellfish for which a permit under Subsection (a) is required [~~7~~ ~~and~~

1 ~~[(2) exotic aquatic plants, as provided by this~~
2 ~~section, that are approved for importation into or possession in~~
3 ~~this state without a permit].~~

4 (c) The department shall make rules to carry out [~~the~~
5 ~~provisions of]~~ this section. [~~In adopting rules that relate to~~
6 ~~exotic aquatic plants, the department shall strive to ensure that~~
7 ~~the rules are as permissive as possible without allowing the~~
8 ~~importation or possession of plants that pose environmental,~~
9 ~~economic, or health problems.]~~

10 (e) In this section:

11 (1) [~~"Approved list" means the list published by the~~
12 ~~department under Subsection (b)(2) of exotic aquatic plants that a~~
13 ~~person may import into or possess in this state without an exotic~~
14 ~~species permit issued by the department.~~

15 ~~[(2) "Exotic aquatic plant" means a nonindigenous~~
16 ~~aquatic plant that is not normally found in aquatic or riparian~~
17 ~~areas of this state.~~

18 ~~[(3)]~~ "Exotic fish" means a nonindigenous fish that is
19 not normally found in the public water of this state.

20 (2) ~~[(4)]~~ "Exotic shellfish" means a nonindigenous
21 shellfish that is not normally found in the public water of this
22 state.

23 (3) "Public water" has the meaning assigned by Section
24 66.015.

25 (j) Except as provided in Subsection (k), an operator of an
26 aquaculture facility under quarantine condition may not discharge
27 waste or another substance from the facility except with approval

1 of the department and a wastewater discharge authorization from the
2 Texas [~~Natural Resource Conservation~~] Commission on Environmental
3 Quality.

4 (k) Even if under quarantine condition, an aquaculture
5 facility shall discharge wastewater or another substance as
6 necessary to comply with an emergency plan that has been submitted
7 to and approved by the department and incorporated into a
8 wastewater discharge authorization issued by the Texas [~~Natural~~
9 ~~Resource Conservation~~] Commission on Environmental Quality.

10 (1) On receiving notice from an owner of the observance of
11 manifestations of disease, the department shall immediately:

12 (1) notify the Department of Agriculture, the Texas
13 [~~Natural Resource Conservation~~] Commission on Environmental
14 Quality, and the Texas Animal Health Commission; and

15 (2) advise the Department of Agriculture, the Texas
16 [~~Natural Resource Conservation~~] Commission on Environmental
17 Quality, and the Texas Animal Health Commission regarding the
18 appropriate action to be taken.

19 SECTION 5. Section 66.0071, Parks and Wildlife Code, is
20 amended to read as follows:

21 Sec. 66.0071. REMOVAL OF HARMFUL AQUATIC PLANTS. On
22 leaving any public or private body of water in this state, a person
23 shall immediately remove and lawfully dispose of any exotic
24 aquatic plant [~~not included~~] on the [~~approved~~] list of prohibited
25 plants adopted [~~published~~] under Section 66.0072 [~~66.007(b)(2)~~]
26 that is clinging or attached to the person's:

27 (1) vessel or watercraft; or

1 (2) trailer, motor vehicle, or other mobile device
2 used to transport or launch a vessel or watercraft.

3 SECTION 6. Subchapter A, Chapter 66, Parks and Wildlife
4 Code, is amended by adding Section 66.0072 to read as follows:

5 Sec. 66.0072. EXOTIC HARMFUL OR POTENTIALLY HARMFUL AQUATIC
6 PLANTS. (a) In this section:

7 (1) "Exotic aquatic plant" means a nonindigenous
8 aquatic plant that is not normally found in the public water of this
9 state.

10 (2) "Public water" has the meaning assigned by Section
11 66.015.

12 (b) A person may not import, possess, sell, or place into
13 the public water of this state an exotic harmful or potentially
14 harmful aquatic plant except as authorized by commission rule or a
15 permit issued by the department.

16 (c) The commission by rule shall adopt a list of exotic
17 aquatic plants that may not be imported into or possessed in this
18 state without a permit.

19 (d) The commission may enact an emergency rule as provided
20 by Chapter 2001, Government Code, to add an exotic aquatic plant to
21 the list of prohibited plants if the plant is determined to be
22 harmful or potentially harmful.

23 (e) This section does not apply to any microalgae imported,
24 possessed, used, or sold for biofuel, academic, or research and
25 development purposes. The department shall consult with the
26 Department of Agriculture as necessary to administer this section
27 and may not adopt rules or permits for microalgae imported,

1 possessed, used, or sold for biofuel, academic, or research and
2 development purposes without written approval from the Department
3 of Agriculture of the rules or permits.

4 (f) The commission shall adopt rules to implement this
5 section.

6 SECTION 7. Sections 66.012(b), (c), (d), (e), and (f),
7 Parks and Wildlife Code, are amended to read as follows:

8 (b) A person who violates Section 66.003, 66.004, 66.005,
9 66.006(c), [~~66.007,~~] 66.009, 66.015, 66.021, or 66.0091 of this
10 code commits an offense that is a Class B Parks and Wildlife Code
11 misdemeanor.

12 (c) An offense under [~~If it is shown at the trial of the~~
13 ~~defendant for a violation of~~] Section 66.004, 66.006(c), [~~66.007,~~
14 or 66.015 is [~~of this code that the defendant has been convicted~~
15 ~~once before the trial date of a violation of the same section, on~~
16 ~~conviction the defendant shall be punished for~~] a Class A Parks and
17 Wildlife Code misdemeanor if it is shown at the trial of a person
18 for the offense that the person has been previously convicted one
19 time of a violation of the same section.

20 (d) An offense under [~~If it is shown at the trial of the~~
21 ~~defendant for a violation of~~] Section 66.004[~~, 66.007,~~] or 66.015
22 is [~~of this code that the defendant has been convicted two or more~~
23 ~~times before the trial date of a violation of the same section, on~~
24 ~~conviction the defendant shall be punished for~~] a Parks and
25 Wildlife Code felony if it is shown at the trial of a person for the
26 offense that the person has been previously convicted two or more
27 times of a violation of the same section.

1 (e) An offense under [~~If it is shown at the trial of the~~
2 ~~defendant for a violation of~~] Section 66.007, 66.0072, 66.020(f),
3 or 66.020(g) [~~of this code~~] or a proclamation adopted by the
4 commission under those sections is [~~that the defendant has been~~
5 ~~convicted within five years before the trial date of a violation of~~
6 ~~the section for which the defendant is being prosecuted, on~~
7 ~~conviction the defendant shall be punished for~~] a Class B Parks and
8 Wildlife Code misdemeanor if it is shown at the trial of a person
9 for the offense that the person has been previously convicted one
10 time of a violation of the same section.

11 (f) An offense under [~~If it is shown at the trial for a~~
12 ~~violation of~~] Section 66.007, 66.0072, 66.020(f), or 66.020(g) [~~of~~
13 ~~this code~~] or a proclamation adopted by the commission under those
14 sections is [~~that the defendant has been convicted two or more times~~
15 ~~within five years before the trial date of a violation of the~~
16 ~~section for which the defendant is being prosecuted, on conviction~~
17 ~~the defendant shall be punished for~~] a Class A Parks and Wildlife
18 Code misdemeanor if it is shown at the trial of a person for the
19 offense that the person has been previously convicted two or more
20 times of a violation of the same section.

21 SECTION 8. Sections 66.007(m) through (s), Parks and
22 Wildlife Code, are repealed.

23 SECTION 9. (a) On the effective date of this Act, the list
24 of harmful or potentially harmful plants that was in effect
25 immediately before the publication of the list of approved plants
26 required by Section 66.007(b), Parks and Wildlife Code, as amended
27 by Section 14, Chapter 952 (H.B. 3391), Acts of the 81st

1 Legislature, Regular Session, 2009, is the list of exotic aquatic
2 plants required by Section 66.0072, Parks and Wildlife Code, as
3 added by this Act, and shall be the list in effect until amended by
4 the Parks and Wildlife Department.

5 (b) The Parks and Wildlife Department may not enforce the
6 permit requirements or prohibited actions regarding exotic aquatic
7 plants that are on the list under Section 66.0072, Parks and
8 Wildlife Code, as added by this Act, before the effective date of
9 this Act.

10 (c) After the effective date of this Act, the Parks and
11 Wildlife Department is not required to maintain or publish the list
12 of approved exotic aquatic plants for which a permit is not required
13 under Section 66.007, Parks and Wildlife Code, as that section
14 provided before the effective date of this Act.

15 (d) Section 66.012, Parks and Wildlife Code, as amended by
16 this Act, applies only to an offense that occurs on or after the
17 effective date of this Act. An offense that occurs before the
18 effective date of this Act is governed by the law in effect
19 immediately before that date, and that law is continued in effect
20 for that purpose. For purposes of this subsection, an offense is
21 committed before the effective date of this Act if any element of
22 the offense occurs before that date.

23 SECTION 10. This Act takes effect immediately if it
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution.
26 If this Act does not receive the vote necessary for immediate
27 effect, this Act takes effect September 1, 2011.