

1-1 By: Hegar S.B. No. 1480
1-2 (In the Senate - Filed March 10, 2011; March 22, 2011, read
1-3 first time and referred to Committee on Agriculture and Rural
1-4 Affairs; April 13, 2011, reported favorably by the following vote:
1-5 Yeas 3, Nays 0; April 13, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the regulation of exotic aquatic species by the Parks
1-9 and Wildlife Department; providing penalties.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. The heading to Chapter 66, Parks and Wildlife
1-12 Code, is amended to read as follows:

1-13 CHAPTER 66. FISH AND AQUATIC PLANTS

1-14 SECTION 2. The heading to Subchapter A, Chapter 66, Parks
1-15 and Wildlife Code, is amended to read as follows:

1-16 SUBCHAPTER A. PROVISIONS APPLICABLE TO FRESHWATER AND SALTWATER
1-17 FISHING AND AQUATIC PLANTS

1-18 SECTION 3. The heading to Section 66.007, Parks and
1-19 Wildlife Code, is amended to read as follows:

1-20 Sec. 66.007. EXOTIC HARMFUL OR POTENTIALLY HARMFUL FISH
1-21 AND ~~[]~~ SHELLFISH ~~[, AND AQUATIC PLANTS]~~.

1-22 SECTION 4. Subsections (a), (b), (c), (e), (j), (k), and
1-23 (l), Section 66.007, Parks and Wildlife Code, are amended to read as
1-24 follows:

1-25 (a) No person may import, possess, sell, or place into the
1-26 public water of this state exotic harmful or potentially harmful
1-27 fish or ~~[]~~ shellfish ~~[, or aquatic plants]~~ except as authorized by
1-28 rule or permit issued by the department.

1-29 (b) The department shall publish a list of ~~[+~~
1-30 ~~[(1)]~~ exotic fish and exotic shellfish for which a
1-31 permit under Subsection (a) is required ~~[, and~~
1-32 ~~[(2)]~~ exotic aquatic plants, as provided by this
1-33 section, that are approved for importation into or possession in
1-34 this state without a permit].

1-35 (c) The department shall make rules to carry out ~~[the~~
1-36 ~~provisions of]~~ this section. ~~[In adopting rules that relate to~~
1-37 ~~exotic aquatic plants, the department shall strive to ensure that~~
1-38 ~~the rules are as permissive as possible without allowing the~~
1-39 ~~importation or possession of plants that pose environmental,~~
1-40 ~~economic, or health problems.]~~

1-41 (e) In this section:
1-42 (1) ~~["Approved list" means the list published by the~~
1-43 ~~department under Subsection (b)(2) of exotic aquatic plants that a~~
1-44 ~~person may import into or possess in this state without an exotic~~
1-45 ~~species permit issued by the department.~~

1-46 (2) ~~["Exotic aquatic plant" means a nonindigenous~~
1-47 ~~aquatic plant that is not normally found in aquatic or riparian~~
1-48 ~~areas of this state.~~

1-49 (3) ~~["Exotic fish" means a nonindigenous fish that is~~
1-50 ~~not normally found in the public water of this state.~~

1-51 (2) ~~[(4)]~~ "Exotic shellfish" means a nonindigenous
1-52 shellfish that is not normally found in the public water of this
1-53 state.

1-54 (3) "Public water" has the meaning assigned by Section
1-55 66.015.

1-56 (j) Except as provided in Subsection (k), an operator of an
1-57 aquaculture facility under quarantine condition may not discharge
1-58 waste or another substance from the facility except with approval
1-59 of the department and a wastewater discharge authorization from the
1-60 Texas ~~[Natural Resource Conservation]~~ Commission on Environmental
1-61 Quality.

1-62 (k) Even if under quarantine condition, an aquaculture
1-63 facility shall discharge wastewater or another substance as
1-64 necessary to comply with an emergency plan that has been submitted

2-1 to and approved by the department and incorporated into a
2-2 wastewater discharge authorization issued by the Texas [~~Natural~~
2-3 ~~Resource Conservation~~] Commission on Environmental Quality.

2-4 (1) On receiving notice from an owner of the observance of
2-5 manifestations of disease, the department shall immediately:

2-6 (1) notify the Department of Agriculture, the Texas
2-7 [~~Natural Resource Conservation~~] Commission on Environmental
2-8 Quality, and the Texas Animal Health Commission; and

2-9 (2) advise the Department of Agriculture, the Texas
2-10 [~~Natural Resource Conservation~~] Commission on Environmental
2-11 Quality, and the Texas Animal Health Commission regarding the
2-12 appropriate action to be taken.

2-13 SECTION 5. Section 66.0071, Parks and Wildlife Code, is
2-14 amended to read as follows:

2-15 Sec. 66.0071. REMOVAL OF HARMFUL AQUATIC PLANTS. On
2-16 leaving any public or private body of water in this state, a person
2-17 shall immediately remove and lawfully dispose of any exotic aquatic
2-18 plant [~~not included~~] on the [~~approved~~] list of prohibited plants
2-19 adopted [~~published~~] under Section 66.0072 [~~66.007(b)(2)~~] that is
2-20 clinging or attached to the person's:

2-21 (1) vessel or watercraft; or
2-22 (2) trailer, motor vehicle, or other mobile device
2-23 used to transport or launch a vessel or watercraft.

2-24 SECTION 6. Subchapter A, Chapter 66, Parks and Wildlife
2-25 Code, is amended by adding Section 66.0072 to read as follows:

2-26 Sec. 66.0072. EXOTIC HARMFUL OR POTENTIALLY HARMFUL AQUATIC
2-27 PLANTS. (a) In this section:

2-28 (1) "Exotic aquatic plant" means a nonindigenous
2-29 aquatic plant that is not normally found in the public water of this
2-30 state.

2-31 (2) "Public water" has the meaning assigned by Section
2-32 66.015.

2-33 (b) A person may not import, possess, sell, or place into
2-34 the public water of this state an exotic harmful or potentially
2-35 harmful aquatic plant except as authorized by commission rule or a
2-36 permit issued by the department.

2-37 (c) The commission by rule shall adopt a list of exotic
2-38 aquatic plants that may not be imported into or possessed in this
2-39 state without a permit.

2-40 (d) The commission may enact an emergency rule as provided
2-41 by Chapter 2001, Government Code, to add an exotic aquatic plant to
2-42 the list of prohibited plants if the plant is determined to be
2-43 harmful or potentially harmful.

2-44 (e) This section does not apply to any microalgae imported,
2-45 possessed, used, or sold for biofuel, academic, or research and
2-46 development purposes. The department shall consult with the
2-47 Department of Agriculture as necessary to administer this section
2-48 and may not adopt rules or permits for microalgae imported,
2-49 possessed, used, or sold for biofuel, academic, or research and
2-50 development purposes without written approval from the Department
2-51 of Agriculture of the rules or permits.

2-52 (f) The commission shall adopt rules to implement this
2-53 section.

2-54 SECTION 7. Subsections (b), (c), (d), (e), and (f), Section
2-55 66.012, Parks and Wildlife Code, are amended to read as follows:

2-56 (b) A person who violates Section 66.003, 66.004, 66.005,
2-57 66.006(c), [~~66.007,~~] 66.009, 66.015, 66.021, or 66.0091 of this
2-58 code commits an offense that is a Class B Parks and Wildlife Code
2-59 misdemeanor.

2-60 (c) An offense under [~~If it is shown at the trial of the~~
2-61 defendant for a violation of] Section 66.004, 66.006(c), [~~66.007,~~
2-62 or 66.015 is [~~of this code that the defendant has been convicted~~
2-63 once before the trial date of a violation of the same section, on
2-64 conviction the defendant shall be punished for] a Class A Parks and
2-65 Wildlife Code misdemeanor if it is shown at the trial of a person
2-66 for the offense that the person has been previously convicted one
2-67 time of a violation of the same section.

2-68 (d) An offense under [~~If it is shown at the trial of the~~
2-69 defendant for a violation of] Section 66.004[~~, 66.007,~~] or 66.015

3-1 ~~is [of this code that the defendant has been convicted two or more~~
 3-2 ~~times before the trial date of a violation of the same section, on~~
 3-3 ~~conviction the defendant shall be punished for] a Parks and~~
 3-4 ~~Wildlife Code felony if it is shown at the trial of a person for the~~
 3-5 ~~offense that the person has been previously convicted two or more~~
 3-6 ~~times of a violation of the same section.~~

3-7 (e) ~~An offense under [If it is shown at the trial of the~~
 3-8 ~~defendant for a violation of] Section 66.007, 66.0072, 66.020(f),~~
 3-9 ~~or 66.020(g) [of this code] or a proclamation adopted by the~~
 3-10 ~~commission under those sections is [that the defendant has been~~
 3-11 ~~convicted within five years before the trial date of a violation of~~
 3-12 ~~the section for which the defendant is being prosecuted, on~~
 3-13 ~~conviction the defendant shall be punished for] a Class B Parks and~~
 3-14 ~~Wildlife Code misdemeanor if it is shown at the trial of a person~~
 3-15 ~~for the offense that the person has been previously convicted one~~
 3-16 ~~time of a violation of the same section.~~

3-17 (f) ~~An offense under [If it is shown at the trial for a~~
 3-18 ~~violation of] Section 66.007, 66.0072, 66.020(f), or 66.020(g) [of~~
 3-19 ~~this code] or a proclamation adopted by the commission under those~~
 3-20 ~~sections is [that the defendant has been convicted two or more times~~
 3-21 ~~within five years before the trial date of a violation of the~~
 3-22 ~~section for which the defendant is being prosecuted, on conviction~~
 3-23 ~~the defendant shall be punished for] a Class A Parks and Wildlife~~
 3-24 ~~Code misdemeanor if it is shown at the trial of a person for the~~
 3-25 ~~offense that the person has been previously convicted two or more~~
 3-26 ~~times of a violation of the same section.~~

3-27 SECTION 8. Subsections (m) through (s), Section 66.007,
 3-28 Parks and Wildlife Code, are repealed.

3-29 SECTION 9. (a) On the effective date of this Act, the list
 3-30 of harmful or potentially harmful plants that was in effect
 3-31 immediately before the publication of the list of approved plants
 3-32 required by Subsection (b), Section 66.007, Parks and Wildlife
 3-33 Code, as amended by Section 14, Chapter 952 (H.B. 3391), Acts of the
 3-34 81st Legislature, Regular Session, 2009, is the list of exotic
 3-35 aquatic plants required by Section 66.0072, Parks and Wildlife
 3-36 Code, as added by this Act, and shall be the list in effect until
 3-37 amended by the Parks and Wildlife Department.

3-38 (b) The Parks and Wildlife Department may not enforce the
 3-39 permit requirements or prohibited actions regarding exotic aquatic
 3-40 plants that are on the list under Section 66.0072, Parks and
 3-41 Wildlife Code, as added by this Act, before the effective date of
 3-42 this Act.

3-43 (c) After the effective date of this Act, the Parks and
 3-44 Wildlife Department is not required to maintain or publish the list
 3-45 of approved exotic aquatic plants for which a permit is not required
 3-46 under Section 66.007, Parks and Wildlife Code, as that section
 3-47 provided before the effective date of this Act.

3-48 (d) Section 66.012, Parks and Wildlife Code, as amended by
 3-49 this Act, applies only to an offense that occurs on or after the
 3-50 effective date of this Act. An offense that occurs before the
 3-51 effective date of this Act is governed by the law in effect
 3-52 immediately before that date, and that law is continued in effect
 3-53 for that purpose. For purposes of this subsection, an offense is
 3-54 committed before the effective date of this Act if any element of
 3-55 the offense occurs before that date.

3-56 SECTION 10. This Act takes effect immediately if it
 3-57 receives a vote of two-thirds of all the members elected to each
 3-58 house, as provided by Section 39, Article III, Texas Constitution.
 3-59 If this Act does not receive the vote necessary for immediate
 3-60 effect, this Act takes effect September 1, 2011.

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