

BILL ANALYSIS

H.B. 1818
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Culture, Recreation & Tourism
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Certain game, animal parts, and animal products confiscated under the Parks and Wildlife Code are currently sold to the highest bidder, and the revenue from the sale is held in a suspense fund in the state treasury pending certain outcomes with respect to the prosecution of the person charged in connection with the confiscation. However, interested parties assert that under current law, proceeds held in the suspense fund cannot be touched until the suspect appears in court, and since some suspects never appear, the Parks and Wildlife Department (TPWD) has money held in suspense dating back nearly 30 years. H.B. 1818 seeks to remedy this situation by, among other provisions, providing for the transfer or payment of money held by TPWD in a suspense account for cases in which the person charged in connection with the confiscation fails to appear in court, the charges against the person are dismissed, or the statute of limitations period for the prosecution of the offense has expired.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1818 amends the Parks and Wildlife Code to require the proceeds from the sale of confiscated aquatic products to be deposited in the state treasury to the credit of the appropriate suspense fund, rather than suspense account No. 900, pending the outcome of the action taken against the person charged with illegal possession. The bill requires all the proceeds to be transferred to the credit of the game, fish, and water safety account if the person is found guilty; pleads guilty or nolo contendere; is placed on deferred adjudication; or fails to appear in accordance with a notice to appear or another law requiring that, as a condition of release, the defendant subsequently appear before a court to answer for the offense. The bill requires the Parks and Wildlife Department (TPWD) to pay the proceeds of the sale to the person from whom the aquatic products were seized if the person charged with illegal possession is acquitted by the trial court, the charges against the person are dismissed, or the statute of limitations period for the prosecution of the offense has expired. The bill removes a requirement for the proceeds to be paid to the owner of the aquatic products unless the person charged with illegal possession is found guilty, pleads guilty or nolo contendere, or is placed on deferred adjudication.

H.B. 1818 requires TPWD to deposit the proceeds from the sale of confiscated live game in the state treasury to the credit of the appropriate suspense fund, rather than suspense account 900, pending the outcome of any action against the person charged with an unlawful action for which the game was confiscated. The bill expands the circumstances under which TPWD is required to transfer the proceeds of the sale to the credit of the game, fish, and water safety account to include a circumstance in which the person charged with the unlawful action fails to appear in accordance with a notice to appear or another law requiring that, as a condition of release, the defendant subsequently appear before a court to answer for the offense. The bill requires TPWD to pay the proceeds of the sale to the person from whom the game was seized if the person

charged with the unlawful action is acquitted by the trial court, the charges against the person are dismissed, or the statute of limitations period for the prosecution of the offense has expired, rather than requiring TPWD to pay the proceeds of the sale to the person charged with the unlawful action if the person is found not guilty.

H.B. 1818 authorizes a game warden or authorized employee of TPWD to seize a fur-bearing animal or carcass, in addition to a pelt, taken or possessed in violation of the Parks and Wildlife Code or a lawful regulation of the Parks and Wildlife Commission. The bill removes language requiring a game warden or TPWD employee to hold a pelt as evidence if an alleged violator is charged with a violation in connection with the pelt seized. The bill removes provisions making the authority to sell confiscated pelts contingent on the alleged violator being convicted or pleading nolo contendere and requiring a confiscated pelt to be returned to its lawful owner if the alleged violator is not guilty of the offense or if the charge is dismissed.

H.B. 1818 authorizes TPWD to sell a confiscated fur-bearing animal, pelt, or carcass to the highest of three bidders and requires TPWD, at the time of the sale, to provide the buyer a receipt for all fur-bearing animals, pelts, or carcasses sold to the buyer. The bill requires TPWD to deposit the proceeds of the sale in the state treasury to the credit of the appropriate suspense fund pending the outcome of any action against the person charged with an unlawful action for which the animal, pelt, or carcass was seized. The bill requires TPWD to transfer the proceeds of the sale to the credit of the game, fish, and water safety account if the person is found guilty, pleads guilty or nolo contendere, is placed on deferred adjudication, or fails to appear in accordance with a notice to appear or another law requiring that, as a condition of release, the defendant subsequently appear before a court to answer for the offense. The bill requires TPWD to pay the proceeds of the sale to the person from whom the items were seized if the person is acquitted by the trial court, the charges against the person are dismissed, or the statute of limitations period for the prosecution of the offense has expired.

H.B. 1818 expands the circumstances under which TPWD is required to transfer the proceeds of the sale of an alligator, alligator hide, alligator egg, or alligator part seized by a game warden or other peace officer to the credit of the game, fish, and water safety account to include a circumstance in which the person from whom such an item was seized fails to appear in accordance with a notice to appear or another law requiring that, as a condition of release, the defendant subsequently appear before a court to answer for the offense. The bill requires TPWD to pay the proceeds of the sale to the person from whom the items were seized if the person is acquitted by the trial court, the charges against the person are dismissed, or the statute of limitations period for the prosecution of the offense has expired and repeals a provision requiring TPWD to transfer the proceeds to the owner of the seized items if the alleged violator is found not guilty or if the charges are dismissed.

H.B. 1818 repeals Section 65.009(c), Parks and Wildlife Code.

EFFECTIVE DATE

September 1, 2013.