

By: Kuempel

H.B. No. 1818

A BILL TO BE ENTITLED

AN ACT

relating to the disposition of confiscated game, animal parts, and animal products.

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

SECTION 1. Sections 12.109(b) and (d), Parks and Wildlife Code, are amended to read as follows:

(b) The confiscated aquatic products shall be sold to the highest of three bidders. The proceeds of the sale shall be deposited in the state treasury to the credit of the appropriate suspense fund ~~[account No. 900]~~ pending the outcome of the action taken against the person charged with illegal possession. The officer shall give to the person a receipt for all aquatic products seized upon the sale of the aquatic products. If bids cannot be obtained, the department, if practicable, shall donate the aquatic products to a charitable institution, hospital, or other person.

(d) If [Unless] the person is found guilty, pleads guilty or nolo contendere, [or] is placed on deferred adjudication, or fails to appear in accordance with a notice described by Section 12.106 or another law requiring that, as a condition of release, the defendant subsequently appear before a court to answer for the offense, all the proceeds shall be transferred to the credit of the game, fish, and water safety account. 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

1 offense has expired, the department shall pay the proceeds of the  
2 sale to the person from whom ~~[paid to the owner of]~~ the aquatic  
3 products were seized.

4 SECTION 2. Section 12.110(d), Parks and Wildlife Code, is  
5 amended to read as follows:

6 (d) The department may sell confiscated live game described  
7 by Subsection (a) to the highest of three bidders. At the time of a  
8 sale under this subsection, the department shall provide the buyer  
9 a receipt for all game sold to the buyer. The department shall  
10 deposit the proceeds of the sale in the state treasury to the credit  
11 of the appropriate suspense fund ~~[account 900]~~ pending the outcome  
12 of any action against the person charged with an unlawful action  
13 described by Subsection (a). If that person is found guilty, pleads  
14 guilty or nolo contendere, ~~[or]~~ is placed on deferred adjudication,  
15 or fails to appear in accordance with a notice described by Section  
16 12.106 or another law requiring that, as a condition of release, the  
17 defendant subsequently appear before a court to answer for the  
18 offense, the department shall transfer ~~[deposit]~~ the proceeds of  
19 the sale to the credit of ~~[into]~~ the game, fish, and water safety  
20 account. If the person is acquitted by the trial court, the charges  
21 against the person are dismissed, or the statute of limitations  
22 period for the prosecution of the offense has expired ~~[found not~~  
23 ~~guilty]~~, the department shall pay the proceeds of the sale to the  
24 person from whom the game was seized.

25 SECTION 3. Section 12.1101, Parks and Wildlife Code, is  
26 amended to read as follows:

27 Sec. 12.1101. SEIZURE AND DISPOSAL OF CERTAIN ANIMALS'

1 PELTS AND CARCASSES. (a) A game warden or authorized employee of  
2 the department may seize a ~~[the pelt of any]~~ fur-bearing animal,  
3 pelt, or carcass taken or possessed in violation of a provision of  
4 this code or a lawful regulation of the commission. ~~[If an alleged~~  
5 ~~violation is charged with a violation of a provision of this code or~~  
6 ~~of a regulation of the commission in connection with the pelt~~  
7 ~~seized, the warden or employee shall hold the pelt as evidence. On~~  
8 ~~conviction of the alleged violator or on his plea of nolo~~  
9 ~~contendere, the pelts may be sold to the highest bidder after taking~~  
10 ~~the minimum of three written bids by the department. If the alleged~~  
11 ~~violation is not guilty of the offense or if the charge is dismissed~~  
12 ~~the pelts shall be returned to their lawful owner.]~~

13 (b) The department may sell a confiscated fur-bearing  
14 animal, pelt, or carcass to the highest of three bidders. At the  
15 time of a sale under this subsection, the department shall provide  
16 the buyer a receipt for all fur-bearing animals, pelts, or  
17 carcasses sold to the buyer. The department shall deposit the  
18 proceeds of the sale in the state treasury to the credit of the  
19 appropriate suspense fund pending the outcome of any action against  
20 the person charged with an unlawful action described by Subsection  
21 (a). If that person is found guilty, pleads guilty or nolo  
22 contendere, is placed on deferred adjudication, or fails to appear  
23 in accordance with a notice described by Section 12.106 or another  
24 law requiring that, as a condition of release, the defendant  
25 subsequently appear before a court to answer for the offense, the  
26 department shall transfer the proceeds of the sale to the credit of  
27 the game, fish, and water safety account. If the person is

1 acquitted by the trial court, the charges against the person are  
2 dismissed, or the statute of limitations period for the prosecution  
3 of the offense has expired, the department shall pay the proceeds of  
4 the sale to the person from whom the items were seized.

5 (c) A game warden or authorized employee of the department  
6 acting under the authority of this section is immune from liability  
7 and from suit for the seizure of items under this section ~~[pelts]~~.

8 SECTION 4. Section 65.009(b), Parks and Wildlife Code, is  
9 amended to read as follows:

10 (b) If a person from whom an item described by Subsection  
11 (a) was seized is found guilty, pleads guilty or nolo contendere, is  
12 placed on deferred adjudication, or fails to appear in accordance  
13 with a notice described by Section 12.106 or another law requiring  
14 that, as a condition of release, the defendant subsequently appear  
15 before a court to answer for the offense ~~[On conviction of a~~  
16 ~~violation, on a plea of nolo contendere, or on assessment of~~  
17 ~~deferred adjudication in connection with an alligator, alligator~~  
18 ~~hide, alligator egg, or alligator part seized under this section]~~,  
19 the department shall transfer the proceeds of the sale from the  
20 suspense fund to the credit of the game, fish, and water safety  
21 account ~~[fund]~~. If the person is acquitted by the trial court, the  
22 charges against the person are dismissed, or the statute of  
23 limitations period for the prosecution of the offense has expired,  
24 the department shall pay the proceeds of the sale to the person from  
25 whom the items were seized.

26 SECTION 5. Section 65.009(c), Parks and Wildlife Code, is  
27 repealed.

1           SECTION 6. (a) The changes in law made by this Act apply  
2 only to items seized by the Parks and Wildlife Department on or  
3 after the effective date of this Act. Items seized before the  
4 effective date of this Act are covered by the law in effect on the  
5 date of the seizure, and the former law is continued in effect for  
6 that purpose.

7           (b) The changes in law made by this Act apply to funds under  
8 the control of the Parks and Wildlife Department on and after the  
9 effective date of this Act acquired by the sale of seized items  
10 under Sections 12.109, 12.110, 12.1101, and 65.009, Parks and  
11 Wildlife Code, regardless of whether those items were seized  
12 before, on, or after the effective date of this Act.

13          SECTION 7. This Act takes effect September 1, 2013.