

BILL ANALYSIS

Senate Research Center
89R15809 MP-F

S.B. 2846
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Water, Agriculture and Rural Affairs
4/17/2025
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 2846 grants the Texas Parks and Wildlife Department (TPWD) the authority to establish quarantines to control and prevent the spread of disease in native wildlife species.

This bill mirrors the Texas Animal Health Commission's (TAHC) existing quarantine authority for livestock and transfers the authority to TPWD to ensure a more effective response to wildlife disease threats.

As proposed, S.B. 2846 amends current law relating to the control of disease in wildlife, creates criminal offenses, and authorizes an administrative penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Parks and Wildlife Commission in SECTION 1 (Sections 12.802, 12.803, 12.804, 12.811, 12.813, 12.814, and 12.815, Parks and Wildlife Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 12, Parks and Wildlife Code, by adding Subchapter I, as follows:

SUBCHAPTER I. WILDLIFE DISEASE CONTROL

Sec. 12.801. DEFINITION. Defines "wildlife."

Sec. 12.802. DISEASE CONTROL; OFFENSE. (a) Requires the Texas Parks and Wildlife Department (TPWD) to protect all wildlife from diseases the Texas Parks and Wildlife Commission (TPWC) determines require control or eradication. Requires TPWC to adopt and periodically update rules listing the diseases that require control or eradication by TPWD.

(b) Authorizes TPWD to act to eradicate or control any disease or agent of transmission for any disease that affects wildlife regardless of whether the disease is communicable. Authorizes TPWC to adopt any rules necessary to carry out the purposes of this subsection, including rules concerning testing, movement, inspection, and treatment of wildlife.

(c) Provides that a person commits an offense if the person knowingly fails to handle, in accordance with rules adopted by TPWC, wildlife:

(1) infected with a disease listed by TPWC by rule under Subsection (a);

(2) exposed, as defined by TPWC rule, to a disease listed by TPWC by rule under Subsection (a) if TPWD has notified the person that the wildlife was exposed to the disease; or

(3) subject to a testing requirement due to a risk of exposure, as defined by TPWC rule, to a specific disease if TPWD has notified the person of the testing requirement.

(d) Provides that a person commits an offense if the person knowingly fails to identify or refuses to permit an agent of TPWD to identify, in accordance with rules adopted by TPWC, wildlife infected with a disease listed by TPWC by rule under Subsection (a).

(e) Provides that an offense under this section is a Class C Parks and Wildlife Code misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section, in which event the offense is a Class B Parks and Wildlife Code misdemeanor.

(f) Prohibits TPWD, in complying with this section, from infringing on or superseding the authority of any other agency of this state, including the authority of the Texas Animal Health Commission (TAHC) relating to livestock, exotic livestock, domestic fowl, or exotic fowl. Requires TPWD, if a conflict of authority occurs, to assume responsibility for disease control efforts in wildlife and work collaboratively with the other agency to enable each agency to effectively carry out the agency's responsibilities.

Sec. 12.803. ESTABLISHMENT OF QUARANTINE. (a) Authorizes TPWD to establish a quarantine to protect wildlife against all or the portion of a state, territory, or country in which a disease listed in rules adopted under Section 12.802 exists.

(b) Authorizes a quarantine established under Subsection (a) to extend to any affected area, including a county, district, pasture, lot, ranch, farm, field, range, thoroughfare, building, stable, or stockyard pen.

(c) Authorizes TPWD to establish a quarantine to prohibit or regulate the movement of wildlife under certain circumstances.

(d) Authorizes TPWC by rule to authorize the executive director of TPWD (director) to establish a quarantine under this section, who is required to promptly notify TPWC when a quarantine is established.

Sec. 12.804. STATEWIDE OR WIDESPREAD QUARANTINE. (a) Provides that TPWD is authorized to quarantine wildlife in all or any part of this state as a means of immediately restricting the movement of wildlife potentially infected with disease and required to clearly describe the territory included in a quarantine area.

(b) Provides that TPWC by rule is authorized to authorize the director to establish a quarantine under this section, who is required to promptly notify TPWC when a quarantine is established.

(c) Requires TPWC by rule to prescribe the manner in which notice of a statewide or widespread quarantine under this section is to be published.

Sec. 12.805. PUBLICATION OF NOTICE. (a) Requires TPWD, except as provided by Section 12.804(c), to give notice of a quarantine against another state, territory, or country by publishing notice of the quarantine in a newspaper published in this state. Provides that the quarantine takes effect on the date of publication.

(b) Requires TPWD to give notice of a quarantine established within this state by publishing notice in a newspaper published in the county in which the quarantine is established, by posting notice at the courthouse door of that county, or by delivering a written notice to the caretaker or owner, if applicable, of the wildlife or places to be quarantined. Authorizes TPWD to pay the expense of publication or posting out of any appropriation made for the office and stationery expenses of

TPWD. Authorizes the commissioners court of a county in which a quarantine is established to pay the expenses of publication or posting out of any available funds of the county.

Sec. 12.806. CONTENTS OF NOTICE. (a) Requires that a quarantine notice state the requirements and restrictions under which wildlife is authorized to be permitted to enter this state or to be moved from a quarantined area within this state. Requires that the notice, if the seriousness of the disease is sufficient to warrant prohibiting the movement of wildlife, state that the movement is prohibited. Requires that the quarantine notice state the class of persons authorized by TPWD to issue certificates or permits permitting movement.

(b) Requires that a quarantine notice state the cause for which the quarantine is established, whether for infection or for exposure.

(c) Provides that a quarantine notice is required to describe the area or premises quarantined in a reasonable manner that enables a person to identify the area or premises, but is not required to describe the area or premises by metes and bounds.

(d) Authorizes TPWD, if the quarantine regulates or prohibits the movement of a carrier or potential carrier of a disease, to prescribe any exceptions, terms, conditions, or provisions that TPWD considers necessary or desirable to promote the objectives of this subchapter or to minimize the economic impact of the quarantine without endangering those objectives or the health and safety of the public. Requires that any exceptions, terms, conditions, or provisions prescribed under this subsection be stated in the quarantine notice.

Sec. 12.807. EFFECT OF QUARANTINE. Provides that a quarantine that is established for any location has the effect of quarantining all wildlife of the kind mentioned in the quarantine notice that are on or enter that location during the existence of the quarantine, regardless of who possesses or controls the wildlife.

Sec. 12.808. MOVEMENT FROM QUARANTINED AREA; MOVEMENT OF QUARANTINED WILDLIFE. (a) Prohibits a person, in violation of a quarantine, except as provided by Subsection (b), from moving wildlife in this state from any quarantined place in or outside this state, moving quarantined wildlife from the place in which they are quarantined, or moving wildlife designated as disease carriers or potential disease carriers in this state from a quarantined place in or outside this state.

(b) Authorizes TPWD to provide for a written certificate or written permit authorizing the movement of wildlife from quarantined places or the movement of quarantined wildlife. Requires that the certificate or permit be issued by a veterinarian or other person authorized by TPWD to issue a certificate or permit. Requires that each certificate or permit be issued in conformity with the requirements stated in the quarantine notice.

(c) Requires TPWD, if TPWD finds wildlife that have been moved in violation of a quarantine established under this subchapter or in violation of any other law, to quarantine the wildlife until the wildlife have been properly treated, vaccinated, tested, or disposed of in accordance with TPWC rules.

Sec. 12.809. MOVEMENT IN VIOLATION OF QUARANTINE; OFFENSE. (a) Provides that a person commits an offense if the person moves wildlife in violation of Section 12.808(a) or as caretaker of the wildlife, the person permits movement of the wildlife in violation of Section 12.808.

(b) Provides that, except as provided by Subsection (c), an offense under this section is a Class C Parks and Wildlife Code misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted of an

offense under this section, in which event the offense is a Class B Parks and Wildlife Code misdemeanor.

(c) Provides that an offense under this section involving the movement of wildlife in violation of a quarantine established in relation to chronic wasting disease is a Class A Parks and Wildlife Code misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted of an offense punishable under this subsection, in which event the offense is a Parks and Wildlife Code felony.

(d) Provides that a person commits a separate offense for each individual of a wildlife species moved in violation of Section 12.808(a) and each county into which wildlife, including wildlife carrying or potentially carrying disease, are moved within six months following the original movement in violation of Section 12.808.

Sec. 12.810. ADMINISTRATIVE PENALTY. (a) Authorizes TPWC to impose an administrative penalty on a person who violates this subchapter or a rule or order adopted under this subchapter.

(b) Authorizes the penalty for a violation to be in an amount not to exceed \$5,000. Provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. Prohibits the amount of the penalty from being calculated on a per head basis.

(c) Requires that the amount of the penalty be based on certain factors.

(d) Authorizes the director, if the director determines that a violation has occurred, to issue to TPWC a report that states the facts on which the determination is based and the director's recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(e) Requires the director, not later than the 14th day after the date the report is issued, to give written notice of the report to the person. Authorizes the notice to be given by certified mail. Requires that the notice include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Authorizes a person in writing, not later than the 20th day after the date the person receives the notice given under Subsection (e), to accept the determination and recommended penalty of the director or make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) Requires TPWC, if the person accepts the determination and recommended penalty of the director, to approve the determination and impose the recommended penalty.

(h) Requires TPWC, if the person requests a hearing or fails to respond timely to the notice, to set a hearing and give notice of the hearing to the person. Requires that the hearing be held by an administrative law judge of the State Office of Administrative Hearings. Requires the administrative law judge to make findings of fact and conclusions of law and promptly issue to TPWC a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty. Authorizes TPWC, based on the findings of fact, conclusions of law, and proposal for a decision, to find that a violation has occurred and impose a penalty or find that no violation occurred.

(i) Requires that the notice of TPWC's decision be given to the person under Chapter 2001 (Administrative Procedure), Government Code, and include a statement of the right of the person to judicial review of the order.

(j) Requires a person, not later than the 30th day after the date TPWC's decision becomes final as provided by Section 2001.144 (Decisions or Orders; When Final), Government Code, to take certain actions regarding the penalty.

(k) Authorizes a person who acts under Subsection (j)(3) (relating to filing a petition for judicial review without paying the amount of the penalty) during the period provided by that subsection to:

(1) stay enforcement of the penalty by taking certain actions; or

(2) request the court to stay enforcement of the penalty by taking certain actions.

(l) Authorizes the director, if the director receives a copy of an affidavit under Subsection (k)(2), to file with the court, not later than the fifth day after the date the copy is received, a contest to the affidavit. Requires the court to hold a hearing on the facts alleged in the affidavit as soon as practicable and stay the enforcement of the penalty on finding that the alleged facts are true. Provides that the person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(m) Authorizes the director, if the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, to refer the matter to the attorney general for collection of the amount of the penalty.

(n) Provides that judicial review of a decision of TPWC is instituted by filing a petition as provided by Subchapter G (Contested Cases: Judicial Review), Chapter 2001, Government Code, and is under the substantial evidence rule.

(o) Authorizes the court, if the court sustains the occurrence of the violation, to uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. Requires the court, if the court does not sustain the occurrence of the violation, to order that no penalty is owed.

(p) Requires the court, when the judgment of the court becomes final, to proceed under this subsection. Requires the court, if the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, to order that the appropriate amount plus accrued interest be remitted to the person. Provides that the rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest is required to be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. Requires the court, if the person gave a supersedeas bond and if the amount of the penalty is reduced, to order the release of the bond after the person pays the amount of the reduced penalty.

(q) Requires that a penalty collected under this section be remitted to the Comptroller of Public Accounts of the State of Texas for deposit in the general revenue fund.

(r) Provides that all proceedings under this section are subject to Chapter 2001, Government Code.

Sec. 12.811. DISPOSAL OF DISEASED WILDLIFE CARCASS. (a) Requires a person who possesses wildlife that die from a disease listed by TPWC in rules adopted under Section 12.802, or who owns or controls the land on which the wildlife die or on which

the carcasses are found, to dispose of the carcasses in the manner required by TPWC under this section.

(b) Prohibits the Texas Commission on Environmental Quality from adopting a rule related to the disposal of wildlife under this section unless the rule is developed in cooperation with and is approved by TPWC.

(c) Provides that TPWC is required to determine the most effective methods of disposing of diseased carcasses, including methods other than burning or burial and by rule is authorized to delegate TPWC's authority under this section to TPWD or director.

Sec. 12.812. EXPOSURE OF INFECTION CONSIDERED CONTINUING. Provides that, if a veterinarian employed by TPWD determines that a communicable disease exists among wildlife or that on certain premises wildlife have been exposed to the agency of transmission of a communicable disease, the exposure or infection is considered to continue until TPWD determines that the exposure or infection has been eradicated through methods prescribed by TPWC rule.

Sec. 12.813. CLASSIFICATION OF AREAS. (a) Authorizes TPWC by rule to prescribe criteria for classifying areas in the state for disease control. Requires that the criteria be based on sound epidemiological principles. Authorizes TPWC to prescribe different control measures and procedures for areas with different classifications.

(b) Authorizes TPWC by rule to designate as a particular classification an area consisting of one or more counties.

Sec. 12.814. IMPORTATION OF WILDLIFE; OFFENSE. (a) Authorizes TPWC by rule to regulate the movement, including movement by a railroad company or other common carrier, of wildlife into this state from another state, territory, or country.

(b) Authorizes TPWC by rule to provide the method for inspecting and testing wildlife before and after entry into this state.

(c) Authorizes TPWC by rule to provide for the issuance and form of health certificates and entry permits.

(d) Provides that a person, including a railroad company or other common carrier, commits an offense if the person knowingly moves wildlife into this state in violation of a rule adopted under this section.

(e) Provides that an offense under this section is a Class C Parks and Wildlife Code misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section, in which event the offense is a Class B Parks and Wildlife Code misdemeanor.

(f) Provides that a person commits a separate offense for each individual of a wildlife species moved in violation of a rule adopted under this section.

Sec. 12.815. DUTY TO REPORT. (a) Requires a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of wildlife to report to TPWD the existence of diseases listed in rules adopted by TPWC detected among the wildlife not later than 24 hours after diagnosis of the disease. Requires TPWC to adopt and periodically update rules listing the diseases that TPWC determines require reporting under this section.

(b) Authorizes TPWC, in addition to reporting required by Subsection (a), to adopt rules that require a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of wildlife to report the existence of a

disease other than bluetongue in the wildlife to TPWD not later than 24 hours after diagnosis if the disease meets certain criteria.

(c) Authorizes TPWC to adopt rules that require a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of wildlife to report a disease not covered by Subsection (a) or (b) if TPWC determines that action to be necessary for the protection of wildlife health in this state. Requires TPWC to immediately deliver a copy of a rule adopted under this subsection to the appropriate legislative oversight committees.

Sec. 12.816. REFUSAL TO PROVIDE ACCESS TO WILDLIFE; OFFENSE. (a) Provides that a person who possesses or controls wildlife commits an offense if the person knowingly refuses to gather the wildlife for testing, identification, inspection, or another procedure required TPWC rule.

(b) Provides that an offense under this section is a Class C Parks and Wildlife Code misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section, in which event the offense is a Class B Parks and Wildlife Code misdemeanor.

(c) Provides that a person commits a separate offense on each day of refusal under Subsection (a).

SECTION 2. Repealers: Sections 161.041(f) (relating to prohibiting TPWC from infringing on or superseding the authority of any other agency of this state) and (g) (relating to TPWC's authority to control or eradicate an agent of transmission that is an animal species that is not subject to the jurisdiction of TPWD), Agriculture Code.

SECTION 3. Requires TAHC and TPWD, not later than November 1, 2025, to enter into a memorandum of understanding relating to the transfer of the administration of disease control in wildlife, as defined by Section 12.801, Parks and Wildlife Code, as added by this Act. Requires that the memorandum of understanding include a timetable and specific steps and methods for completing the transfer not later than September 1, 2026.

SECTION 4. Effective date: September 1, 2025.