

## **BILL ANALYSIS**

Senate Research Center  
81R32700 SLB-F

C.S.H.B. 1965  
By: Darby et al. (Seliger)  
Agriculture & Rural Affairs  
5/12/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The overpopulation of white-tailed deer has caused an unknown amount of damage to cash crops in Texas. Legislation was developed in previous sessions to address the problem; however, applying for a permit to control wildlife causing harm to Texas agriculture producers is time-consuming for applicants, counties, and the Texas Parks and Wildlife Department. A pilot program was created specifically for Tom Green County to develop a model for the program and to identify the challenging statutes in order to simplify the process.

This bill would change the permitting process for controlling protected wildlife that is causing serious harm to commercial agricultural, horticultural, and aquicultural interests, or that is a threat to public safety.

C.S.H.B. 1965 amends current law relating to permits to control protected wildlife and provides a penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Parks and Wildlife Commission in SECTION 2 (Section 43.1515, Parks and Wildlife Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 43.151, Parks and Wildlife Code, as follows:

Sec. 43.151. THREATS TO PUBLIC SAFETY OR DAMAGE BY WILDLIFE. Deletes Subsection (a) designation. Requires a person who has evidence clearly showing that wildlife protected by this code is causing serious damage to commercial agricultural, horticultural, or aquicultural interests, rather than to agricultural, horticultural, or aquicultural interests or other property, or is a threat to public safety, and who desires to kill the protected wildlife to give written notice of the facts to the Texas Parks and Wildlife Department (TPWD), rather than to the county judge of the county or to the mayor of the municipality in which the damage or threat occurs. Deletes existing Subsection (b) relating to requiring the county judge or mayor to perform certain actions. Makes a nonsubstantive change.

SECTION 2. Amends Subchapter H, Chapter 43, Parks and Wildlife Code, by adding Section 43.1515, as follows:

Sec. 43.1515. RULES. Authorizes the Texas Parks and Wildlife Commission (commission) to adopt rules to implement this subchapter, including rules governing reports that are required to be submitted to TPWD by a person who holds a permit issued by TPWD under this subchapter, the reinstatement of a canceled permit and a fee for the reinstatement, the possession of wildlife resources taken or held under this subchapter, the circumstances required to qualify for a permit, and the electronic issuance of permits.

SECTION 3. Amends Section 43.152, Parks and Wildlife Code, as follows:

Sec. 43.152. DEPARTMENT INSPECTION. (a) Authorizes, rather than requires, TPWD, on receiving notice from a person under Section 43.151, rather than a notice from

a county judge or mayor, to inspect the property and determine if damage or a threat to public safety is occurring as alleged in the notice.

(b) Prohibits TPWD, if the notice received by TPWD under Section 43.151 alleges damage or a threat to public safety caused by mule deer, pronghorn antelope, or desert bighorn sheep, from issuing a permit under Section 43.154 (Permit) unless TPWD inspects the property and determines whether serious damage or a threat to public safety is occurring. Deletes existing text requiring TPWD to make recommendations to the person as are feasible and appropriate for controlling the damage or threat if the damage or threat is occurring.

SECTION 4. Amends Section 43.153, Parks and Wildlife Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires that the application for a permit to kill the protected wildlife (application) be in writing, be sworn to by the applicant, and contain a statement of facts relating to the damage or threat and an agreement by the applicant to comply with the provisions of this subchapter and any rules adopted by the commission under this subchapter, rather than an agreement by the applicant to comply with the provisions of this subchapter relating to the disposition of the protected wildlife.

(d) Requires that the application be accompanied by a permit application fee of \$50 or an amount set by the commission, whichever amount is more. Requires that proceeds from the fee be deposited in the special game, fish, and water safety account.

SECTION 5. Amends Sections 43.154, Parks and Wildlife Code, by amending Subsections (a), (b), and (c) and adding Subsection (a-1), as follows:

(a) Requires TPWD, as soon as practicable, but not later than the 10th business day after the date TPWD receives an application, to approve or deny the application and, if the application is approved, issue the permit.

(a-1) Prohibits TPWD from issuing a permit under this section for the killing of mule deer, pronghorn antelope, or desert bighorn sheep unless TPWD has inspected the property and has verified that serious damage or a threat to public safety as described in the notice under Section 43.151 is occurring, TPWD has made recommendations to the applicant regarding ways to minimize the damage or threat, and the applicant has made a reasonable effort to comply with the recommendations made by TPWD under this section.

(b) Requires TPWD to deliver or mail the permit, if issued, to the person requesting the permit or to the regional or local office of TPWD for pickup by the person. Authorizes TPWD to issue the permit electronically. Deletes existing text requiring TPWD to deliver the permit, if issued, to the county judge or mayor that sent the notice of damage or threat and prohibiting the permit from being delivered earlier than 24 hours after the notice from the county judge or mayor was received by TPWD.

(c) Requires that the permit specify certain information, including the kind and number of wildlife authorized to be killed.

SECTION 6. Amends Section 43.155, Parks and Wildlife, as follows:

Sec. 43.155. DISPOSITION OF WILDLIFE. (a) Requires the holder of a permit issued under this subchapter or a person designated by Section 43.154(c)(4) (relating to the persons permitted to kill the noxious wildlife) who kills wildlife under the authority of the permit to dispose of the carcass by donating it to a charitable institution, a hospital, a needy person, or any other appropriate recipient. Deletes existing text requiring the holder of a permit issued under this subchapter who kills wildlife under the authority of the permit to give the location of the wildlife carcass to the game warden or other TPWD employee assigned to the area covered by the permit. Deletes text of existing Subsection

(b) requiring the game warden or other TPWD employee notified to dispose of the carcass in certain ways, or as directed by the court. Makes nonsubstantive changes.

(b) Prohibits the permit holder or a person designated under Section 43.154(c)(4) from keeping or selling any part of the wildlife taken under this subchapter, including antlers.

SECTION 7. Amends Section 43.156, Parks and Wildlife Code, to authorize TPWD to cancel a permit if the permit does not accomplish its intended purposes, the permit holder fails to submit a required report to TPWD, or the permit holder intentionally made false claims on the application for the permit. Makes nonsubstantive changes.

SECTION 8. Amends Subchapter H, Chapter 43, Parks and Wildlife Code, by adding Section 43.1565, as follows:

Sec. 43.1565. REINSTATEMENT OF PERMIT. Authorizes TPWD to reinstate a canceled permit if the permit holder submits an application for reinstatement in the same manner as required by Section 43.153 for an original permit and pays a fee set by the commission.

SECTION 9. Amends Section 43.157, Parks and Wildlife Code, by amending Subsection (d), and adding Subsection (e), as follows:

(d) Creates an exception under Subsection (e).

(e) Provides that a person who violates a reporting requirement adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 10. Repealers: Sections 43.153(c) (relating to requirement that the application be accompanied by certain documentation) and 43.157(a) (relating to allowing no permittee to fail to notify a game warden or other TPWD employee of the killing of wildlife), Parks and Wildlife Code.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: upon passage or September 1, 2009.