

BILL ANALYSIS

Senate Research Center

H.B. 1788
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that snake collecting along public roadways has been adversely affected by recently passed legislation. These parties contend that snake hunting was permitted and lawfully practiced in many regions of Texas until recently and all of these regions experienced significant economic benefit derived from the tourism associated with individuals, known as herpers, searching for or collecting reptiles and amphibians. Legislation is needed to authorize the nonlethal capture of reptiles and amphibians in public rights-of-way if the person capturing the animals possesses, along with a hunting license, a reptile and amphibian stamp issued by the Texas Parks and Wildlife Department. By reinstating the right to collect reptiles and amphibians in a safe and regulated manner, enthusiasts will be able to practice this activity and, in doing so, bring dollars back to Texas's rural communities.

H.B. 1788 amends current law relating to capturing reptiles and amphibians by nonlethal means and provides a penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTION 1 (Section 43.901, Parks and Wildlife Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 43, Parks and Wildlife Code, by adding Subchapter W, as follows:

SUBCHAPTER W. REPTILE AND AMPHIBIAN STAMP

Sec. 43.901. REPTILE AND AMPHIBIAN STAMP REQUIRED. (a) Authorizes a person, except as provided by Section 43.905, to capture by nonlethal means an indigenous reptile or amphibian on the shoulder of a road, as defined by Section 541.302 (Traffic Areas), Transportation Code, or the unpaved area of a public right-of-way only if the person possesses a reptile and amphibian stamp issued to the person by the Texas Parks and Wildlife Department (TPWD).

(b) Requires the Texas Parks and Wildlife Commission (commission) by rule to prescribe the form, design, and manner of issuance of a stamp under this subchapter.

(c) Provides that the stamp is not valid unless the person to whom the stamp is issued has signed the stamp on its face.

(d) Authorizes the commission by rule to prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

(e) Provides that a stamp issued under this subchapter is valid only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. Provides that each yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission.

Sec. 43.902. FEE. Provides that the fee for a reptile and amphibian stamp is \$10. Authorizes TPWD to issue other editions of the stamp that are not valid for capturing by nonlethal means a species covered by this subchapter for a fee set by the commission.

Sec. 43.903. HUNTING LICENSE REQUIRED. Provides that the possession of a reptile and amphibian stamp does not authorize a person to capture by nonlethal means an indigenous reptile or amphibian without possessing a hunting license required by Section 42.002 (Resident License Required; Exemption) or 42.005 (Nonresident License Required), or at a time or by means not otherwise authorized by this code.

Sec. 43.904. STAMP SALE RECEIPTS. Requires that the net revenue derived from the sale of reptile and amphibian stamps be credited to the game, fish, and water safety account.

Sec. 43.905. EXEMPTIONS. Provides that a person is not required to have a hunting license or reptile and amphibian stamp to capture by nonlethal means and subsequently release in another location an indigenous reptile or amphibian if the person is:

- (1) performing activities related to oil or gas exploration or production;
- (2) an employee of the state, a utility, as defined by Section 203.091 (Definition), Transportation Code, or a power generation company, as defined by Section 31.002 (Definitions), Utilities Code, and is acting in the course and scope of the person's employment with the state, the utility, or the power generation company; or
- (3) performing activities related to surface coal mining and reclamation operations as defined by Section 134.004 (Definitions), Natural Resources Code.

Sec. 43.906. PENALTY. (a) Provides that a person who violates Section 43.901 commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) Provides that a person, other than a person described by Section 43.905, in an area described by Section 43.901 who is engaged in capturing by nonlethal means a species covered by this subchapter and fails or refuses on the demand of any game warden or other peace officer to show a reptile and amphibian stamp is presumed to be in violation of Section 43.901.

SECTION 2. Amends Section 62.0031, Parks and Wildlife Code, by amending Subsection (a) and adding Subsections (c), (d), and (e), as follows:

(a) Prohibits a person, except as provided by Subsections (b) (relating to providing that this section does not apply to the trapping of a raptor for educational or sporting purposes) and (c), from hunting a wild animal or bird when the person is on a public road or right-of-way. Makes a nonsubstantive change.

(c) Authorizes a person to capture by nonlethal means reptiles and amphibians on the shoulder of a road, as defined by Section 541.302, Transportation Code, or the unpaved area of a public right-of-way if the person possesses a reptile and amphibian stamp issued to the person by TPWD and does not use a trap, or is described by Section 43.905.

(d) Requires a person to wear reflective clothing when engaging in the capture by nonlethal means of a reptile or amphibian under a stamp issued by TPWD. Requires that the clothing have at least 144 square inches of reflective material on both the front and back of the clothing.

(e) Prohibits a person from using a spotlight attached to a motor vehicle in capturing a reptile or amphibian under Subsection (c).

SECTION 3. Amends Section 62.004, Parks and Wildlife Code, as follows:

Sec. 62.004. HUNTING AT NIGHT. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Provides that Subsection (a) does not apply to a person engaging in the capture by nonlethal means of a reptile or amphibian under a stamp issued by TPWD.

SECTION 4. (a) Requires the commission, not later than March 1, 2012, to adopt rules to implement the changes in law made by this Act, and the form, design, and manner of issuance of, and the fee for, a reptile and amphibian stamp under Subchapter W, Chapter 43, Parks and Wildlife Code, as added by this Act.

(b) Provides that notwithstanding Sections 43.901(e) and 43.902, Parks and Wildlife Code, as added by this Act, the initial reptile and amphibian stamps issued under Subchapter W, Chapter 43, Parks and Wildlife Code are valid for the period beginning the date the stamps first become available and ending on the expiration of the first yearly period set by the commission under Section 43.901(e), and are required to be issued for a fee equal to the yearly fee, plus a prorated amount for the period beginning the date the stamps first become available and ending on the day preceding the date the first yearly period begins.

SECTION 5. Effective date: upon passage or September 1, 2011.