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TITLE 5. WILDLIFE AND PLANT MANAGEMENT AND CONSERVATION

SUBTITLE D. LICENSES, PERMITS, AND STAMPS

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TITLE 5. WILDLIFE AND PLANT MANAGEMENT AND CONSERVATION

SUBTITLE D. LICENSES, PERMITS, AND STAMPS

CHAPTER 5151. GENERAL HUNTING LICENSES

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5151.0101. DETERMINATION OF RESIDENCY STATUS. (a) For purposes of this chapter, a person is considered a resident if the person is:

(1) an individual who has resided continuously in this state for more than six months immediately before applying for a hunting license;

(2) a member of the United States armed forces on active duty;

(3) a dependent of a member of the United States armed forces on active duty;

(4) if approved by the executive director, a terminally ill individual who is participating in an event sponsored by a charitable nonprofit organization;

(5) a member of the Kickapoo Traditional Tribe of Texas who possesses documentation of membership sanctioned by the United States Bureau of Indian Affairs; or

(6) a member of another category of individuals that the commission by regulation designates as residents.

(b) For purposes of this chapter, a person is considered a nonresident if the person is an individual not described by Subsection (a). (Parks & Wild. Code, Secs. 42.001(1), (2).)

Source Law

Sec. 42.001. DEFINITIONS. In this chapter:

(1) "Resident" means:

(A) an individual who has resided continuously in this state for more than six months immediately before applying for a hunting license;

(B) a member of the United States armed forces on active duty;

(C) a dependent of a member of the United States armed forces on active duty;

(D) if approved by the director, a terminally ill individual who is participating in an event sponsored by a charitable nonprofit organization;

(E) a member of the Kickapoo Traditional Tribe of Texas who possesses documentation of membership sanctioned by the Bureau of Indian Affairs; or

(F) a member of any other category of individuals that the commission by regulation designates as residents.

(2) "Nonresident" means an individual who is not a resident.

Revisor's Note

Section 42.001, Parks and Wildlife Code, refers to "this chapter," meaning Chapter 42 of that code. Throughout this chapter, the revised law retains references to "this chapter" because the pertinent parts of Chapter 42 are revised in this chapter.

SUBCHAPTER B. LICENSE REQUIRED

Revised Law

Sec. 5151.0201. RESIDENT HUNTING LICENSE REQUIRED. Except as provided by Subchapter C, a resident may not hunt a bird or animal in this state unless the resident holds a hunting license. (Parks & Wild. Code, Sec. 42.002(a).)

Source Law

Sec. 42.002. RESIDENT LICENSE REQUIRED; EXEMPTIONS. (a) Except as provided by Subsections (b), (c), and (d), no resident may hunt any bird or animal in this state without having acquired a hunting license.

Revisor's Note

(1) Section 42.002(a), Parks and Wildlife Code, provides that, except as provided by "Subsections (b), (c), and (d)," meaning Sections 42.002(b), (c), and (d) of that code, a resident may not hunt a bird or animal unless the resident holds a hunting license. Sections 42.002(b), (c), and (d) are revised in Subchapter C of this chapter. Although Subchapter C also includes the revision of other provisions, the revised law substitutes "Subchapter C" for the quoted

language for the convenience of the reader because the additional provisions revised in that subchapter also describe exceptions to the general rule that a resident may not hunt a bird or animal in this state unless the resident holds a hunting license.

(2) Section 42.002(a), Parks and Wildlife Code, prohibits a person from engaging in certain activities without "having acquired" a hunting license. Throughout this subtitle, for consistency in terminology used in this subtitle, the revised law substitutes "holds" for "having acquired" and similar language when the meaning is the same in context.

Revised Law

Sec. 5151.0202. LIFETIME RESIDENT HUNTING LICENSE. The department may issue a lifetime resident hunting license to a resident of this state. (Parks & Wild. Code, Sec. 42.0021.)

Source Law

Sec. 42.0021. LIFETIME RESIDENT HUNTING LICENSE. The department may issue to residents of this state a lifetime resident hunting license.

Revised Law

Sec. 5151.0203. NONRESIDENT HUNTING LICENSE REQUIRED. (a) Except as provided by Subchapter C, a nonresident may not hunt a bird or animal in this state unless the nonresident holds a nonresident general hunting license or a nonresident five-day hunting license.

(b) A nonresident may not hunt a mule deer, white-tailed deer, turkey, pronghorn antelope, desert bighorn sheep, or alligator in this state unless the nonresident holds a nonresident general hunting license.

(c) A nonresident may acquire multiple nonresident five-day hunting licenses during a license year. A nonresident five-day hunting license is not valid for a mule deer, white-tailed deer, turkey, pronghorn antelope, desert bighorn sheep, or alligator. (Parks & Wild. Code, Secs. 42.005(a), (b), 42.0143(a), (c).)

Source Law

Sec. 42.005. NONRESIDENT LICENSE REQUIRED. (a) No nonresident in this state may hunt a mule deer, white-tailed deer, turkey, pronghorn antelope, desert bighorn sheep, or alligator in this state without first having acquired a nonresident general hunting license.

(b) Except as provided by Subsection (f), no nonresident may hunt any bird or animal in this state without first having acquired a nonresident general hunting license or a nonresident five-day hunting license.

Sec. 42.0143. NONRESIDENT FIVE-DAY HUNTING LICENSE. (a) A nonresident five-day hunting license is not valid for a mule deer, white-tailed deer, turkey, pronghorn antelope, desert bighorn sheep, or alligator.

(c) A nonresident may acquire multiple nonresident five-day hunting licenses during a license year.

Revisor's Note

(1) Section 42.005(b), Parks and Wildlife Code, provides that, except as provided by "Subsection (f)," meaning Section 42.005(f) of that code, a nonresident may not hunt a bird or animal in this state unless the nonresident holds a certain hunting license. Section 42.005(f) is revised in Subchapter C of this chapter. Although Subchapter C also includes the revision of other provisions, the revised law substitutes "Subchapter C" for "Subsection (f)" for the convenience of the reader because the additional provisions revised in that subchapter also describe exceptions to the general rule that a nonresident may not hunt a bird or animal in this state unless the nonresident holds a certain hunting license.

(2) Section 42.005(e), Parks and Wildlife Code, provides that a nonresident may not acquire or possess more than one nonresident general hunting license during a license year. The revised law omits that provision because it duplicates in substance Section 42.022, Parks and Wildlife Code, revised as Section 5151.0604, which provides that a person may not

acquire or possess more than one hunting license during a license year, excluding a nonresident who does not hold more than one nonresident general hunting license. The omitted law reads:

> (e) A nonresident may not acquire or possess during a license year more than one nonresident general hunting license.

Revised Law

Sec. 5151.0204. HUNTING UNDER LICENSE OF ANOTHER PERSON PROHIBITED. A person may not:

(1) hunt under a license issued to another person; or

(2) permit another person to hunt under a license issued to the person. (Parks & Wild. Code, Sec. 42.023.)

Source Law

> Sec. 42.023. HUNTING UNDER LICENSE OF ANOTHER. No person may hunt under a license issued to another or permit another to hunt under a license issued to him.

SUBCHAPTER C. EXCEPTIONS

Revised Law

Sec. 5151.0301. RESIDENT LICENSE NOT REQUIRED FOR CERTAIN VETERANS. A resident is exempt from the requirement to hold a hunting license under Section 5151.0201 if the resident is:

(1) a veteran of the United States armed forces; and

(2) acting under Subchapter D, Chapter 2060, and complying with rules adopted under that subchapter. (Parks & Wild. Code, Sec. 42.002(d).)

Source Law

> (d) A person who is a resident and who is a veteran of the United States armed forces is not required to have a license issued under this section if the person is acting under Section 11.208 and complying with rules adopted under that section.

Revisor's Note

Section 42.002(d), Parks and Wildlife Code, refers to a hunting license issued under Section 42.002 of that code. Section 42.002 is revised in pertinent part as Section 5151.0201, and the revised law is drafted accordingly.

Revised Law

Sec. 5151.0302. LICENSE NOT REQUIRED TO TAKE OR POSSESS SPECIES COVERED BY CERTAIN OTHER LICENSES OR PERMITS. (a) A resident who holds a resident trapper's license or fur-bearing animal propagation permit is not required to hold a license issued under Section 5151.0201 to take or possess the species covered by the trapper's license or propagation permit.

(b) A nonresident who holds a nonresident trapper's license is not required to hold a license issued under Section 5151.0203 to take or possess the species covered by the trapper's license. (Parks & Wild. Code, Secs. 42.002(b), 42.005(c).)

Source Law

[Sec. 42.002]

(b) A resident possessing a valid resident trapper's license or fur-bearing animal propagation permit is not required to have a license issued under this section to take or possess the species covered by the license or permit.

[Sec. 42.005]

(c) A nonresident possessing a valid nonresident trapper's license is not required to have a license issued under this section to take or possess the species governed by the license.

Revisor's Note

(1) Sections 42.002(b) and 42.005(c), Parks and Wildlife Code, refer to a "valid . . . trapper's license." The revised law omits "valid" as unnecessary because it does not add to the clear meaning of the law. A purported license is not a license if it is not valid.

(2) Sections 42.002(b) and 42.005(c), Parks and Wildlife Code, refer to a license issued under "this section," meaning Section 42.002 or 42.005, respectively, of that code. The pertinent parts of Sections 42.002 and 42.005 are revised as Sections 5151.0201 and 5151.0203, respectively, and the revised law is drafted accordingly.

(3) Section 42.005(c), Parks and Wildlife Code,

refers to a species "governed" by a nonresident trapper's license. The revised law substitutes "covered" for "governed" for consistency in terminology used in this section and because the terms are synonymous in context.

Revised Law

Sec. 5151.0303. LICENSE NOT REQUIRED TO TAKE FERAL HOGS UNDER CERTAIN CIRCUMSTANCES. A resident landowner, a nonresident landowner, or a person with the consent of the landowner may take a feral hog on the landowner's land without holding a hunting license. (Parks & Wild. Code, Secs. 42.002(c), 42.005(f).)

Source Law

[Sec. 42.002]

(c) A resident landowner or any person, with the consent of the landowner, may take feral hogs on the resident landowner's land without having acquired a hunting license.

[Sec. 42.005]

(f) A nonresident landowner or any person, with the consent of the landowner, may take feral hogs on the nonresident landowner's land without having acquired a hunting license required by this chapter.

Revised Law

Sec. 5151.0304. RESIDENT LICENSE WAIVER AUTHORIZED FOR CERTAIN INDIVIDUALS. The commission may waive the requirement to hold a hunting license under Section 5151.0201 for a resident who is younger than 17 years of age, 65 years of age or older, or participating in an event that is sponsored or co-sponsored by the department with the approval of the executive director. (Parks & Wild. Code, Sec. 42.012(b) (part).)

Source Law

(b) The commission may . . . waive the . . . license requirement for a resident who is under 17 years old, 65 years old or older, or participating in an event that is sponsored or co-sponsored by the department with the approval of the director. . . .

Revisor's Note

Section 42.012(b), Parks and Wildlife Code, authorizes the Parks and Wildlife Commission to waive the "license requirement" for certain individuals.

The revised law substitutes "requirement to hold a hunting license under Section 5151.0201" for "license requirement" because it is clear from the context of the section that the license referred to is a hunting license required to be held by a resident under Section 42.002, Parks and Wildlife Code, revised in pertinent part as Section 5151.0201.

SUBCHAPTER D. LICENSE FEES

Revised Law

Sec. 5151.0401. RESIDENT LICENSE FEE; WAIVER. (a) The fee for a resident hunting license is $8 or a greater amount set by the commission.

(b) The commission may set a lower fee or waive the fee for a person described by Section 5151.0304.

(c) The commission shall waive the fee for:

(1) a veteran with a service-connected disability, as defined by the United States Department of Veterans Affairs, consisting of the loss of the use of a lower extremity or of a disability rating of 50 percent or more and who is receiving compensation from the United States for the disability; and

(2) a resident on active duty as a member of the United States military forces, the Texas Army National Guard, the Texas Air National Guard, or the Texas State Guard. (Parks & Wild. Code, Secs. 42.012(a), (b) (part), (c).)

Source Law

> Sec. 42.012. RESIDENT LICENSE FEE. (a) The fee for a resident hunting license is $8 or an amount set by the commission, whichever amount is more.
>
> (b) The commission may set a lower fee or waive the fee or . . . for a resident who is under 17 years old, 65 years old or older, or participating in an event that is sponsored or co-sponsored by the department with the approval of the director. The commission shall waive the fee for a qualified veteran with a disability and for a resident on active duty as a member of the United States military forces, the Texas Army National Guard, the Texas Air National Guard, or the Texas State Guard.
>
> (c) "Qualified veteran with a disability" means a veteran with a service connected disability, as defined by the United States Department of Veterans Affairs, consisting of the loss of the use of a lower

extremity or of a disability rating of 50 percent or more and who is receiving compensation from the United States for the disability.

Revised Law

Sec. 5151.0402. LIFETIME RESIDENT LICENSE FEE. The fee for a lifetime resident hunting license is $300 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 42.0121.)

Source Law

Sec. 42.0121. LIFETIME RESIDENT HUNTING LICENSE FEE. The fee for a lifetime resident hunting license is $300 or an amount set by the commission, whichever amount is more.

Revised Law

Sec. 5151.0403. NONRESIDENT GENERAL LICENSE FEE. The fee for a nonresident general hunting license is $100.75 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 42.0141.)

Source Law

Sec. 42.0141. NONRESIDENT GENERAL HUNTING LICENSE FEE. The fee for a nonresident general hunting license is $100.75 or an amount set by the commission, whichever amount is more.

Revised Law

Sec. 5151.0404. NONRESIDENT FIVE-DAY LICENSE FEE. The fee for a nonresident five-day hunting license is set by the commission in an amount not to exceed 50 percent of the amount of the fee set for a nonresident general hunting license under Section 5151.0403. (Parks & Wild. Code, Sec. 42.0143(d).)

Source Law

(d) The fee for a nonresident five-day hunting license is set by the commission in an amount not to exceed 50 percent of the amount of the fee set for a nonresident general hunting license.

Revisor's Note

Section 42.0143(d), Parks and Wildlife Code, provides that the fee for a nonresident five-day hunting license is an amount set by the Parks and Wildlife Commission not to exceed 50 percent of the amount of the fee for a nonresident general hunting license. Section 42.0141, Parks and Wildlife Code, revised as Section 5151.0403, prescribes the amount of

the fee for a nonresident general hunting license, and the revised law adds a reference to that section for the convenience of the reader.

SUBCHAPTER E. TAGS

Revised Law

Sec. 5151.0501. TAGS AUTHORIZED. (a) The department may issue tags for birds or animals allowed by law to be killed during each year or season to holders of licenses authorizing the killing of birds or animals. The commission may establish fees for the tags.

(b) The commission by regulation shall determine the number of tags that may be issued to an individual for taking birds or animals. (Parks & Wild. Code, Secs. 42.010(b), (e).)

Source Law

(b) The department may issue tags for animals or birds allowed by law to be killed during each year or season to holders of licenses authorizing the killing of animals or birds. The commission may establish fees for the tags.

(e) The commission by regulation shall determine the number of tags that may be issued to an individual for taking animals or birds.

Revised Law

Sec. 5151.0502. DIGITAL TAGS. (a) In this section:

(1) "Final processing" means the cleaning of a dead bird or animal for cooking or storage purposes. For a deer or antelope, the term also includes the processing of the animal more than by quartering.

(2) "Quartering" means the processing of an animal into not more than two hindquarters each having the femur attached down to the knee and two front shoulders each having the scapula and humerus attached down to the elbow. The term also includes removal of two back straps.

(b) The commission by rule may develop and implement a program for the issuance of digital tags for birds and animals to holders of hunting licenses authorizing the taking of those birds or animals.

(c) A program developed under this section may include:

(1) providing for the issuance of digital tags to the holder of a hunting license;

(2) allowing a person using a digital tag to create a digital record at the time of the taking of a bird or animal that includes information required by the department;

(3) requiring a person using a digital tag to create the digital record described by Subdivision (2) as soon as possible after the taking of the bird or animal; and

(4) requiring a person using a digital tag to retain in the person's possession documentation of the digital record described by Subdivision (2) at all times before the killed bird or animal is finally processed.

(d) Unless the context requires otherwise, a reference under this code to a tag includes a digital tag issued under a program developed under this section. (Parks & Wild. Code, Secs. 42.001(5), (8), 42.0101.)

Source Law

[Sec. 42.001]

[(3) "Carcass" means the body of a dead deer or antelope . . . .]

(5) "Final processing," for a carcass or wild turkey, means the cleaning of the dead animal for cooking or storage purposes. For a carcass, the term also includes the processing of the animal more than by quartering.

(8) "Quartering" means the processing of an animal into not more than two hindquarters each having the leg bone (femur) attached down to the knee and two front shoulders each having the leg bones (scapula and humerus) attached down to the elbow. The term also includes removal of two back straps.

Sec. 42.0101. DIGITAL TAGS; RULES. (a) The commission by rule may develop and implement a program for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals.

(b) A program developed under this section may include:

(1) providing for the issuance of digital tags to the holder of a hunting license;

(2) allowing a person using a digital tag to create a digital record at the time of the taking of an animal that includes information required by the department;

(3) requiring a person using a digital tag

to create the digital record described by Subdivision (2) as soon as possible after the taking of the animal; and

(4) requiring a person using a digital tag to retain in the person's possession documentation of the digital record described by Subdivision (2) at all times before the carcass is finally processed.

(c) Unless the context requires otherwise, a reference under this code to a tag includes a digital tag issued under a program developed under this section.

Revisor's Note

(1) Section 42.001(8), Parks and Wildlife Code, refers to "leg bone (femur)" in connection with the hindquarters of an animal and refers to "leg bones (scapula and humerus)" in connection with the front shoulders of an animal. For clarity and conciseness, the revised law substitutes "femur" for "leg bone (femur)" and substitutes "scapula and humerus" for "leg bones (scapula and humerus)."

(2) Section 42.0101(b)(4), Parks and Wildlife Code, provides that a program developed under Section 42.0101 of that code may include a requirement that a person using a digital tag retain a digital record at all times before the "carcass" is "finally processed." Section 42.001(3), Parks and Wildlife Code, revised as Section 5053.0201, limits the definition of "carcass" to the body of a dead deer or antelope that has not been processed more than by quartering. Section 42.001(5), Parks and Wildlife Code, revised as Subsection (a)(1) of this section, limits the definition of "final processing" to a carcass or wild turkey. The references to "carcass" in Section 42.0101(b)(4) and to "carcass or wild turkey" in Section 42.001(5) in the context of this section are drafting errors. It is clear from the context that Section 42.0101(b)(4) is intended to apply to any bird or animal that is required to be tagged and not merely to a deer, antelope, or wild turkey and that Section 42.001(5) is

intended to apply to any dead bird or animal. The revised law accordingly substitutes "killed bird or animal" for "carcass" in Section 42.0101(b)(4), omits the reference to "carcass or wild turkey" in Section 42.001(5), and substitutes "dead bird or animal" for "dead animal" in Section 42.001(5).

Revised Law

Sec. 5151.0503. PROHIBITED ACTS RELATING TO BIRD OR ANIMAL TAGS. (a) A person may not purchase or use more bird or animal tags during a license year than the number and type authorized for the year by the commission, excluding duplicate licenses issued under Section 5151.0605.

(b) A person may not:

(1) use the same bird or animal tag on more than one bird or animal;

(2) use a bird or animal tag issued in the name of another person;

(3) use a tag on a bird or animal for which another tag is specifically required;

(4) kill a bird or animal required to be tagged and fail to immediately attach a properly executed tag to the killed bird or animal; or

(5) hunt a bird or animal that requires a tag without having in the person's immediate possession the tag required to be attached to the bird or animal being hunted after it is killed. (Parks & Wild. Code, Sec. 42.020.)

Source Law

Sec. 42.020. BIRD OR ANIMAL TAGS: PROHIBITED ACTS. (a) No person may purchase or use more bird or animal tags during a license year than the number and type authorized for the year by the commission, excluding duplicate licenses issued under Section 42.017 of this code.

(b) No person may:

(1) use the same bird or animal tag on more than one bird or animal;

(2) use a bird or animal tag issued in the name of another;

(3) use a tag on a bird or animal for which another tag is specifically required;

(4) kill a bird or animal required to be tagged and fail to immediately attach a properly executed tag to the carcass; or

(5) hunt a bird or animal that requires a tag without having in his immediate possession the tag required to be attached to the carcass of the bird or animal being hunted.

Revisor's Note

Section 42.020(b)(4), Parks and Wildlife Code, prohibits a person from killing a bird or animal required to be tagged and failing to attach a properly executed tag to "the carcass," and Section 42.020(b)(5) of that code prohibits a person from hunting a bird or animal that requires a tag without having in the person's possession the tag required to be attached to "the carcass" of the bird or animal being hunted. Section 42.001(3), Parks and Wildlife Code, revised as Section 5053.0201, limits the definition of "carcass" to the body of a dead deer or antelope that has not been processed more than by quartering. The references to "carcass" in Sections 42.020(b)(4) and (5) are drafting errors because it is clear from the context that those provisions are intended to apply to any bird or animal that is required to be tagged and not merely to a deer or antelope. The revised law accordingly substitutes references to "the killed bird or animal" and "the bird or animal . . . after it is killed," respectively, for the references to "the carcass."

SUBCHAPTER F. GENERAL LICENSE AND TAG PROVISIONS

Revised Law

Sec. 5151.0601. FORM AND ISSUANCE OF LICENSES AND TAGS. (a) The department shall prescribe the form of and issue the licenses and tags authorized by this chapter.

(b) A person shall enter the required information on a license or tag before hunting.

(c) A person may not possess a tag without a name entered on

the tag.

(d) A person may not issue or receive a license or tag authorized by this chapter except on the form prescribed by the department. (Parks & Wild. Code, Secs. 42.010(a), (c), (d).)

Source Law

> Sec. 42.010. ISSUANCE AND FORM OF LICENSES AND TAGS. (a) The department shall prescribe the form of and issue the licenses and tags authorized by this chapter.
>
> (c) A person commits an offense if the person does not enter the required information on a license or tag before hunting or if the person possesses a tag without a name entered on the tag.
>
> (d) No person may issue or receive a license or tag authorized by this chapter except on the form provided by the department.

Revisor's Note

Section 42.010(c), Parks and Wildlife Code, provides that a person commits an offense if the person does not enter the required information on a license or tag before hunting or possesses a tag without a name entered on the tag. For clarity, the revised law restates the provision as an affirmative duty to enter the required information and as a prohibition on possessing certain tags but omits the portion of the provision creating an offense because it duplicates in substance Section 42.025, Parks and Wildlife Code, revised as Section 5151.9901, which creates an offense for violating a provision of Chapter 42 of that code.

Revised Law

Sec. 5151.0602. LICENSE TERMS. (a) For purposes of this section, a yearly period for a license:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission.

(b) A license issued under this chapter, other than a lifetime resident hunting license or nonresident five-day hunting

license, is valid only during the yearly period for which the license is issued without regard to the date the license is acquired.

(c) A license issued under this chapter other than a nonresident five-day hunting license that is issued before the first day of the applicable yearly period and that does not expire until the last day of the applicable yearly period is valid from the date of issuance through the last day of the applicable yearly period.

(d) A resident hunting license issued under Section 5151.0401(b) to a resident who is 16 years of age at the time the license is issued but reaches the age of 17 during the term of the license is valid for the entire term of the license.

(e) A nonresident five-day hunting license is valid for five consecutive days. (Parks & Wild. Code, Secs. 42.0143(b), 42.0175(a) (part), (b).)

Source Law

[Sec. 42.0143]

(b) A nonresident five-day hunting license is valid for five consecutive days.

Sec. 42.0175. EXPIRATION DATE. (a) A license issued under this chapter, other than a lifetime resident hunting license or a nonresident five-day hunting license is valid only during the yearly period for which the license is issued without regard to the date on which a license is acquired. Each yearly period begins on September 1 or on another date set by the commission and extends through August 31 of the next year or another date set by the commission. A license issued under this chapter other than a nonresident five-day hunting license that is issued before September 1 or another date set by the commission and does not expire until August 31 of the next year or another date set by the commission is valid from the date of issuance through August 31 of the following year or another date set by the commission. . . .

(b) A license issued under Section 42.012(b) of this code to a person who is 16 years of age at the time the license is issued, but reaches the age of 17 during the term of the license, is valid for the entire term of the license.

Revisor's Note

Section 42.0175(b), Parks and Wildlife Code, refers to a license issued under Section 42.012(b) of that code to a person who is 16 years of age at the time

the license is issued but reaches the age of 17 during the term of the license. Section 42.012(b) is revised in pertinent part as Section 5151.0401(b), and the revised law is drafted accordingly.

Revised Law

Sec. 5151.0603. LICENSE ISSUED FOR TRANSITION PERIOD. The commission by rule may:

(1) provide for a license term for a transition period that is less than or exceeds one year; and

(2) set the fee for a license issued during a transition period at an amount less than the amount prescribed by Subchapter D for that license. (Parks & Wild. Code, Sec. 42.0175(a) (part).)

Source Law

> (a) . . . The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

Revisor's Note

Section 42.0175(a), Parks and Wildlife Code, refers to a license fee set at an amount less than prescribed in Chapter 42 of that code. The pertinent parts of Chapter 42 prescribing license fees are revised as Subchapter D of this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 5151.0604. RESTRICTION ON NUMBER OF LICENSES HELD PER LICENSE YEAR. (a) For purposes of this section, a license year:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission.

(b) Except as provided by Subsection (c), a person may not hold during a license year more than one hunting license with the

same expiration date.

(c) This section does not prohibit:

(1) holding a duplicate hunting license acquired as provided by this subchapter; or

(2) a nonresident holding more than one nonresident hunting license if the nonresident does not hold during a license year more than one nonresident general hunting license. (Parks & Wild. Code, Sec. 42.022.)

Source Law

> Sec. 42.022. ONE LICENSE FOR EACH YEAR. (a) No person may acquire or possess more than one hunting license during a license year. For purposes of this section, a violation does not occur unless a person acquires or possesses more than one license having the same expiration date.
>
> (b) This section does not apply to the acquisition and possession of a duplicate hunting license acquired as provided in this chapter.
>
> (c) This section does not apply to the acquisition and possession by a nonresident of more than one nonresident hunting license if the nonresident does not acquire or possess during a license year more than one nonresident general hunting license.
>
> (d) For purposes of this section, a license year 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.

Revised Law

Sec. 5151.0605. DUPLICATE LICENSE OR TAG. (a) If a license or tag issued under this chapter is lost or destroyed, the license or tag holder may apply to the department for and receive a duplicate license or tag.

(b) The application for a duplicate license or tag must:

(1) be in the form of an affidavit; and

(2) contain:

(A) a statement of fact concerning the loss or destruction of the license or tag; and

(B) a statement of the number of birds or animals killed under the authority of the lost or destroyed license or tag.

(c) The commission by regulation may prescribe additional requirements for the issuance of a duplicate license or tag under this section.

(d) To prevent the killing of more birds or animals than allowed for the year, a duplicate license entitling the holder to hunt a bird or animal must clearly indicate those birds or animals previously killed under the authority of the lost or destroyed license or tag.

(e) The fee for a duplicate license or tag is $5 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 42.017.)

Source Law

> Sec. 42.017. DUPLICATE LICENSE AND TAGS. (a) If a person licensed to hunt under the provisions of this chapter loses the license or tags or if the license or tags are destroyed, the person may apply to the department for and receive a duplicate license or tags.
>
> (b) The application for a duplicate license or tags is in the form of an affidavit and must contain a statement of fact concerning the loss or destruction of the license or tags and a statement of the number of birds or animals, if any, killed under the authority of the lost or destroyed license or tags. The commission by regulation may prescribe additional requirements for the issuance of a duplicate license or tag under this section.
>
> (c) A duplicate license entitling the holder to hunt any bird or animal shall be clearly marked to indicate those birds or animals previously killed under the authority of the lost or destroyed license or tags and to prevent the killing of more birds or animals than allowed for the year.
>
> (d) The fee for a duplicate license or tags is $5 or an amount set by the commission, whichever amount is more.

Revised Law

Sec. 5151.0606. COMMISSION RULES RELATING TO POSSESSION OF LICENSE. The commission by rule may prescribe requirements relating to possessing a license issued under this chapter. (Parks & Wild. Code, Sec. 42.006(a).)

Source Law

> Sec. 42.006. POSSESSION OF LICENSE; RULES. (a) The commission by rule may prescribe requirements relating to possessing a license issued under this chapter.

Revised Law

Sec. 5151.0607. ELECTRONIC DISPLAY OF LICENSE. (a) Rules adopted under Section 5151.0606 must allow a person to present, for the purpose of verifying that the person holds a hunting license, an image displayed on a wireless communication device. The image

displayed may be:

(1) an image of information from the department's Internet website; or

(2) a photograph of a hunting license.

(b) The display of an image that includes hunting license information on a wireless communication device under this section does not constitute effective consent for a peace officer or any other person to access the contents of the wireless communication device except to view the hunting license information.

(c) The authorization of the use of a wireless communication device to display hunting license information under Subsection (a) does not prevent a court from requiring a person to provide a paper copy of the person's hunting license in a hearing or trial or in connection with discovery proceedings.

(d) A telecommunications provider, as defined by Section 51.002, Utilities Code, may not be held liable to the holder of a hunting license for the failure of a wireless communication device to display hunting license information under Subsection (a). (Parks & Wild. Code, Secs. 42.006(b), (c), (d), (e).)

Source Law

> (b) Rules adopted under Subsection (a) must allow for a person to present for the purpose of verification of possession a hunting license as an image displayed on a wireless communication device. The image displayed may be either an image of information from the Internet website of the department or a photograph of a hunting license.
>
> (c) The display of an image that includes hunting license information on a wireless communication device under this section does not constitute effective consent for a law enforcement officer, or any other person, to access the contents of the wireless communication device except to view the hunting license information.
>
> (d) The authorization of the use of a wireless communication device to display hunting license information under Subsection (b) does not prevent a court of competent jurisdiction from requiring a person to provide a paper copy of the person's hunting license in a hearing or trial or in connection with discovery proceedings.
>
> (e) A telecommunications provider, as defined by Section 51.002, Utilities Code, may not be held liable to the holder of a hunting license for the failure of a wireless communication device to display hunting license information under Subsection (b).

Revisor's Note

(1) Section 42.006(c), Parks and Wildlife Code, refers to the display of an image on a wireless communication device under Section 42.006 of that code. The pertinent parts of Section 42.006 relating to the display of an image on a wireless communication device are revised as this section, and the revised law is drafted accordingly.

(2) Section 42.006(c), Parks and Wildlife Code, refers to a "law enforcement officer." The revised law substitutes "peace officer" for "law enforcement officer" for the reason stated in the revisor's note to Section 5104.0206.

(3) Section 42.006(d), Parks and Wildlife Code, provides that the use of a wireless communication device to display hunting license information does not prevent a court "of competent jurisdiction" from requiring a person to provide a paper copy of the license. The revised law omits the quoted language as unnecessary because a court may take action only if the court has jurisdiction over the matter and the general laws of civil or criminal jurisdiction determine which courts have jurisdiction over a civil or criminal matter.

Revised Law

Sec. 5151.0608. EXHIBITING LICENSE. A person required to hold a hunting license under this chapter shall show the license to an officer on demand. (Parks & Wild. Code, Sec. 42.024(a).)

Source Law

Sec. 42.024. EXHIBITING LICENSE. (a) No person required by the provisions of this chapter to have a hunting license may fail or refuse to show the license to an officer on demand.

Revisor's Note

Section 42.024(a), Parks and Wildlife Code,

provides that a person required to hold a hunting license under Chapter 42 of that code may not fail or refuse to show the license to an officer on demand. For clarity, the revised law restates the provision as an affirmative duty to show the license rather than a prohibition on failing or refusing to show the license.

Revised Law

Sec. 5151.0609. COMMISSION RULES RELATING TO KILLED BIRDS OR ANIMALS. The commission by rule may modify or eliminate the tagging or final processing requirements or provisions of Section 5151.0503 or other similar requirements or provisions of this chapter. (Parks & Wild. Code, Sec. 42.0177 (part).)

Source Law

> Sec. 42.0177. BIRD OR ANIMAL CARCASSES: COMMISSION RULES. The commission by rule may modify or eliminate the tagging, . . . final processing requirements or provisions of Section . . . 42.020, or other similar requirements or provisions in this chapter.

Revised Law

Sec. 5151.0610. BAG LIMITS AND SEASON NOT AFFECTED. This chapter does not authorize a person to exceed a bag limit or to hunt deer or turkey during a closed season. (Parks & Wild. Code, Sec. 42.021 (part).)

Source Law

> Sec. 42.021. BAG LIMITS AND SEASON NOT AFFECTED. The provisions of this chapter do not authorize any person to exceed any bag limit or to hunt deer or turkey during a closed season, and . . . .

SUBCHAPTER Y. MISCELLANEOUS PROVISIONS

Revised Law

Sec. 5151.9801. VOLUNTARY CONTRIBUTION TO HELP FEED HUNGRY TEXANS. (a) When a person applies for a hunting license of any type under this chapter, the person may contribute $1 or more to a nonprofit organization designated by the commission whose purposes include the administration of a statewide program that provides hunters with a way to donate legally harvested deer to local food

assistance providers. The program must include the recruitment of meat processors who, for a nominal fee to cover processing costs, process and package the venison and contact the food assistance providers to pick up the venison.

(b) The department shall:

(1) include space on each application for a hunting license that allows the applicant to indicate the amount that the applicant is voluntarily contributing to the nonprofit organization; and

(2) provide an opportunity for an applicant for a hunting license applying through the department's Internet website to contribute to the nonprofit organization during the application process.

(c) After deducting the department's administrative costs, the department shall hold in trust the remainder of the amount contributed under this section to the nonprofit organization. Not later than November 1 of each year, the department shall send the money held in trust to the nonprofit organization.

(d) Money received by the nonprofit organization under this section may be used only to administer, operate, support, and promote the program described by Subsection (a).

(e) The nonprofit organization shall submit an annual report to the legislature and the department that includes the total dollar amount of contributions received by the organization under this section.

(f) The commission may adopt rules to implement this section, including rules related to processes for the selection, inspection, and periodic review of the nonprofit organization. (Parks & Wild. Code, Sec. 42.011.)

Source Law

> Sec. 42.011. VOLUNTARY CONTRIBUTION TO HELP FEED HUNGRY TEXANS. (a) When a person applies for a hunting license of any type under this chapter, the person may contribute $1 or more to a nonprofit organization, designated by the commission, whose purposes include the administration of a statewide program that provides hunters with a way to donate

legally harvested deer to local food assistance providers. The program must include the recruitment of meat processors who, for a nominal fee to cover processing costs, process and package the venison and contact the food assistance providers to pick up the venison.

(b) The department shall:

(1) include space on each application for a hunting license that allows a person applying for the license to indicate the amount that the person is voluntarily contributing to the nonprofit organization; and

(2) provide an opportunity for a person to contribute to the nonprofit organization during the application process for a hunting license on the department's Internet website.

(c) After deducting the department's administrative costs, the department shall hold in trust the remainder of the amount a person contributes under this section to the nonprofit organization. Not later than November 1 of each year, the department shall send the money held in trust to the nonprofit organization.

(d) Money received by the nonprofit organization under this section may be used only to administer, operate, support, and promote the program described by Subsection (a).

(e) The nonprofit organization shall submit an annual report to the legislature and the department that includes the total dollar amount of contributions received by the organization under this section.

(f) The commission may adopt rules to implement this section, including rules related to processes for the selection, inspection, and periodic review of the nonprofit organization.

Revised Law

Sec. 5151.9802. TAKING OF UNBANDED PEN-REARED PHEASANT OR QUAIL BY CERTAIN LANDOWNERS. (a) This section applies only to noncommercial activity involving the taking of pheasant or quail on a property of at least five contiguous acres.

(b) Notwithstanding any other law requiring the banding of a bird, a person, or the person's guest when accompanied by the person, may take unbanded pen-reared pheasant or quail on the person's property.

(c) This section does not:

(1) affect the requirement to hold a commercial game bird breeder's license under Subchapter E, Chapter 5157, for the propagation of game birds; or

(2) authorize a person to:

(A) exceed a bag limit for pheasant or quail; or

(B) take pheasant or quail during a closed

season. (Parks & Wild. Code, Sec. 42.0211.)

Source Law

Sec. 42.0211. TAKING OF UNBANDED PEN-REARED PHEASANT OR QUAIL BY CERTAIN LANDOWNERS. (a) This section applies only to:

(1) noncommercial activity; and

(2) the taking of pheasant or quail on a property of at least five contiguous acres.

(b) Notwithstanding any other law requiring the banding of a bird, a person, or the person's guest when accompanied by the person, may take on the person's property unbanded pen-reared pheasant or quail.

(c) Nothing in this section:

(1) affects the requirement to acquire a license under Section 45.001 for the propagation of game birds; or

(2) authorizes a person to:

(A) exceed a bag limit for pheasant or quail; or

(B) take pheasant or quail during a closed season.

SUBCHAPTER Z. ENFORCEMENT

Revised Law

Sec. 5151.9901. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 42.025.)

Source Law

Sec. 42.025. PENALTY. A person who violates any provision of this chapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revised Law

Sec. 5151.9902. MANDATORY DISMISSAL OF CERTAIN OFFENSES INVOLVING FAILURE TO SHOW LICENSE. A court shall dismiss a charge against a person for a violation of Section 5151.0608 if, on or before the trial of the offense, the person produces for the court or the prosecuting attorney the proper hunting license issued to the person and valid at the time of the offense. (Parks & Wild. Code, Sec. 42.024(b).)

Source Law

(b) If on or before the trial of any person charged with a violation of this section, the person produces for the court or the prosecuting attorney the proper hunting license issued to the person and valid at the time of the offense, the court having jurisdiction of the suit shall dismiss the charge.

Revisor's Note

Section 42.024(b), Parks and Wildlife Code, provides that if a person charged with a violation of Section 42.024 of that code produces a valid hunting license, the court "having jurisdiction of the suit" shall dismiss the charge. Section 42.024 is revised in pertinent part as Section 5151.0608, and the revised law is drafted accordingly. Additionally, the revised law omits the quoted language as unnecessary because a court may take action only if the court has jurisdiction over the matter and the general laws of criminal jurisdiction determine which courts have jurisdiction over a criminal matter.

CHAPTER 5152. GENERAL HUNTING STAMPS

SUBCHAPTER A. ARCHERY HUNTING STAMP

Revised Law

Sec. 5152.0101. ARCHERY HUNTING STAMP REQUIRED. (a) In this section, "open archery season" means a period provided by law or by commission proclamation when only crossbows, longbows, recurved bows, and compound bows may be used to hunt.

(b) Except as provided by Section 5152.0102 or 5152.0104(b), a person may not hunt deer, turkey, or collared peccary or javelina during an open archery season unless the person holds an archery hunting stamp issued to the person by the department.

(c) The commission by rule may prescribe requirements relating to possessing an archery hunting stamp.

(d) In a county that does not permit hunting with a firearm, a hunter may use a crossbow only if the hunter:

(1) is a person with upper limb disabilities; and

(2) holds an archery hunting stamp. (Parks & Wild. Code, Sec. 43.201(a).)

Source Law

Sec. 43.201. ARCHERY STAMP REQUIRED. (a)

Except as provided by Subsection (c) or (d), no person may hunt deer, turkey, or javelina (collared peccary) during an open archery season provided by law or by the proclamations of the commission and during which season only crossbows, longbows, recurved bows, and compound bows may be used unless the person has acquired an archery hunting stamp issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp required by this subchapter. In a county that does not permit hunting with a firearm, a hunter may use a crossbow only if the hunter is a person with upper limb disabilities and has an archery hunting stamp.

Revised Law

Sec. 5152.0102. EXEMPTION. The commission by regulation may exempt a person from the requirement to hold an archery hunting stamp under Section 5152.0101. (Parks & Wild. Code, Sec. 43.201(c).)

Source Law

(c) The commission by regulation may exempt a person from the stamp requirement of this section.

Revisor's Note

Section 43.201(c), Parks and Wildlife Code, provides that the Parks and Wildlife Commission may exempt a person from the stamp requirement of Section 43.201 of that code. Section 43.201 is revised in pertinent part as Section 5152.0101, and the revised law is drafted accordingly.

Revised Law

Sec. 5152.0103. STAMP FEE. The fee for an archery hunting stamp is $6 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 43.202 (part).)

Source Law

Sec. 43.202. FEE. The fee for an archery hunting stamp is $6 or an amount set by the commission, whichever amount is more. . . .

Revised Law

Sec. 5152.0104. FORM AND MANNER OF ISSUANCE OF STAMP. (a) To be valid for hunting purposes, an archery hunting stamp must be:

(1) issued in the form and manner prescribed by the department; and

(2) except as provided by Subsection (b), signed on

its face by the person using the stamp.

(b) The commission by rule may prescribe alternative requirements for identifying the purchaser of an archery hunting stamp issued in an automated manner. (Parks & Wild. Code, Secs. 43.201(b), (d).)

Source Law

> (b) The stamp shall be issued in the form and manner prescribed by the department and, except as provided by Subsection (d), must be signed on its face by the person using the stamp for the stamp to be valid for hunting purposes.
>
> (d) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

Revised Law

Sec. 5152.0105. OTHER EDITIONS OF STAMP. The department may issue other editions of an archery hunting stamp that do not authorize hunting for a fee in an amount set by the commission. (Parks & Wild. Code, Sec. 43.202 (part).)

Source Law

> Sec. 43.202. . . . The department may issue other editions of the stamp that are not valid for hunting at an amount set by the commission.

Revisor's Note

> Section 43.202, Parks and Wildlife Code, provides that the Parks and Wildlife Department may issue editions of the archery hunting stamp that "are not valid for" hunting. The revised law substitutes "do not authorize" for the quoted language because, in context, the phrases are synonymous and "do not authorize" is the clearer phrase.

Revised Law

Sec. 5152.0106. STAMP TERM. (a) An archery hunting stamp is valid for hunting only during the yearly period for which the stamp is issued without regard to the date the stamp is acquired.

(b) Each yearly period for an archery hunting stamp:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission. (Parks & Wild. Code, Sec. 43.201(e) (part).)

Source Law

> (e) A stamp issued under this subchapter is valid for hunting only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. 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. . . .

Revised Law

Sec. 5152.0107. STAMP ISSUED FOR TRANSITION PERIOD. The commission by rule may:

(1) provide for an archery hunting stamp term for a transition period that is less than or exceeds one year; and

(2) set the fee for an archery hunting stamp issued during a transition period at an amount less than the amount prescribed by Section 5152.0103. (Parks & Wild. Code, Sec. 43.201(e) (part).)

Source Law

> (e) . . . The commission by rule may set the amount of a stamp fee for a stamp issued during a transition period at an amount lower than prescribed in this subchapter and provide for a stamp term for a transition period that is shorter or longer than a year.

Revisor's Note

Section 43.201(e), Parks and Wildlife Code, refers to the amount of the fee for an archery hunting stamp prescribed in Subchapter I, Chapter 43, of that code. The pertinent part of Subchapter I, Chapter 43, prescribing the stamp fee is revised as Section 5152.0103, and the revised law is drafted accordingly.

Revised Law

Sec. 5152.0108. HUNTING LICENSE REQUIREMENT AND HUNTING RESTRICTIONS NOT AFFECTED. An archery hunting stamp does not authorize a person to hunt deer, turkey, or collared peccary or javelina:

(1) without the license required by Chapter 5151; or

(2) by any means or method not allowed by law. (Parks & Wild. Code, Sec. 43.203.)

Source Law

> Sec. 43.203. HUNTING LICENSE REQUIRED. The purchase or possession of an archery hunting stamp does not permit a person to hunt deer, turkey, or javelina without the license required by Chapter 42 or by any means or methods not allowed by law.

Revisor's Note

Section 43.203, Parks and Wildlife Code, provides that "[t]he purchase or possession of" an archery hunting stamp does not "permit" a person to hunt deer, turkey, or "javelina" without a hunting license. The revised law omits "[t]he purchase or possession of" as unnecessary because it does not add to the clear meaning of the law. Additionally, the revised law substitutes "authorize" for "permit" for clarity and consistency in terminology used in this code. The revised law also substitutes "collared peccary or javelina" for "javelina" for consistency in terminology used in this chapter because the term "javelina" includes collared peccary and a reference to "javelina" is generally accompanied by a reference to "collared peccary."

Revised Law

Sec. 5152.0109. NET REVENUE FROM STAMP SALES. The net revenue derived from the sale of archery hunting stamps shall be sent to the department. (Parks & Wild. Code, Sec. 43.204.)

Source Law

> Sec. 43.204. STAMP SALE RECEIPTS. The net revenue derived from the sale of archery hunting stamps shall be sent to the department.

Revised Law

Sec. 5152.0110. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 5152.0101.

(b) An offense under this section is a Class C Parks and

Wildlife Code misdemeanor.

(c) A person hunting a species covered by Section 5152.0101(b) during an open archery season who fails on the demand of a peace officer to show an archery hunting stamp or proof that the person is eligible for an exemption provided by Section 5152.0102 is presumed to be in violation of Section 5152.0101. (Parks & Wild. Code, Sec. 43.205.)

Source Law

> Sec. 43.205. PENALTY. (a) A person who violates Section 43.201 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.
>
> (b) A person hunting a species covered by this chapter during an open archery season who fails or refuses on the demand of any game warden or other peace officer to exhibit an archery hunting stamp or proof that the person is eligible for any exemptions provided by Section 43.201(c) is presumed to be in violation of Section 43.201 of this code.

Revisor's Note

(1) Section 43.205, Parks and Wildlife Code, refers to a violation of Section 43.201 of that code. Section 43.201 is revised in pertinent part as Section 5152.0101, and the revised law is drafted accordingly.

(2) Section 43.205(b), Parks and Wildlife Code, refers to a person hunting a species covered by "this chapter." It is clear from the context that the reference to "this chapter" is a drafting error and that the legislature intended to refer to "this subchapter," meaning Subchapter I, Chapter 43, Parks and Wildlife Code. The pertinent part of Subchapter I, Chapter 43, is revised as Section 5152.0101(b), and the revised law is drafted accordingly.

(3) Section 43.205(b), Parks and Wildlife Code, refers to a person who "fails or refuses" to exhibit an archery hunting stamp or proof that the person is eligible for an exemption. The revised law omits "refuses" because refusing to exhibit a stamp or proof of eligibility for an exemption is included within the

meaning of failing to do so.

(4) Section 43.205(b), Parks and Wildlife Code, refers to a "game warden or other peace officer." Throughout this chapter, the revised law omits "game warden" from provisions that include a reference to both "peace officer" and "game warden" for the reason stated in the revisor's note to Section 5103.0407.

SUBCHAPTER B. MIGRATORY AND UPLAND GAME BIRD STAMPS

Revised Law

Sec. 5152.0201. DEFINITIONS. In this subchapter:

(1) "Migratory game bird" means:

(A) a bird listed in Section 5202.0401; and

(B) any other species of migratory bird that the commission by rule designates as a migratory game bird.

(2) "Upland game bird" means:

(A) a bird listed in Section 5202.0101, other than a bird that is also listed in Section 5202.0401; and

(B) any other species of upland game bird that the commission by rule designates as an upland game bird. (Parks & Wild. Code, Sec. 43.651.)

Source Law

Sec. 43.651. DEFINITIONS. In this subchapter:

(1) "Migratory game bird" means any bird listed in Section 64.021 and includes any other species of migratory bird that the commission by rule designates as a migratory game bird.

(2) "Upland game bird" means any bird listed in Section 64.001, other than a bird that is also listed in Section 64.021, and includes any other species of upland game bird that the commission by rule designates as an upland game bird.

Revised Law

Sec. 5152.0202. MIGRATORY OR UPLAND GAME BIRD STAMP REQUIRED. (a) Except as provided by Section 5152.0203, a person may not hunt a migratory or upland game bird in this state unless the person holds the appropriate migratory or upland game bird stamp issued to the person by the department.

(b) The commission by rule may adopt requirements relating

to possessing a migratory or upland game bird stamp. (Parks & Wild. Code, Sec. 43.652(a).)

Source Law

> Sec. 43.652. MIGRATORY OR UPLAND GAME BIRD STAMP REQUIRED. (a) Except as provided by Subsection (b), a person may not hunt a migratory or upland game bird in this state unless the person possesses the appropriate migratory or upland game bird stamp, as applicable, issued to the person by the department. The commission by rule may adopt requirements relating to possessing a stamp required by this subchapter.

Revised Law

Sec. 5152.0203. EXEMPTION. The commission by rule may exempt a person or class of persons from the requirement to hold a migratory or upland game bird stamp under Section 5152.0202. (Parks & Wild. Code, Sec. 43.652(b).)

Source Law

> (b) The commission by rule may exempt a person or class of persons from the stamp requirement of this section.

Revisor's Note

Section 43.652(b), Parks and Wildlife Code, provides that the Parks and Wildlife Commission may exempt a person from the stamp requirement of Section 43.652 of that code. Section 43.652 is revised in pertinent part as Section 5152.0202, and the revised law is drafted accordingly.

Revised Law

Sec. 5152.0204. STAMP FEE. The fee for a migratory or upland game bird stamp is $7. (Parks & Wild. Code, Sec. 43.654(a) (part).)

Source Law

> Sec. 43.654. DESIGN AND ISSUANCE OF STAMPS. (a) [The department may issue] a migratory or upland game bird stamp [to any person on payment to the department of] $7 per stamp.

Revised Law

Sec. 5152.0205. FORM AND MANNER OF ISSUANCE OF STAMPS. (a) The department may issue a migratory or upland game bird stamp to a

person on payment to the department of the fee required by Section 5152.0204.

(b) The commission by rule shall prescribe the form, design, and manner of issuance of a migratory or upland game bird stamp. The department retains all rights to the design.

(c) The commission may contract with and pay a person for designing, producing, and marketing a stamp.

(d) The commission by rule may prescribe alternative requirements for identifying the purchaser of a stamp issued in an automated manner. (Parks & Wild. Code, Secs. 43.654(a) (part), (d), (e), (f).)

Source Law

> Sec. 43.654. DESIGN AND ISSUANCE OF STAMPS. (a) The department may issue a migratory or upland game bird stamp to any person on payment to the department of [$7 per stamp.]
>
> (d) The commission by rule shall prescribe the form, design, and manner of issuance of a stamp under this subchapter. The department retains all rights to the design.
>
> (e) The commission may contract with and pay a person for designing, producing, and marketing a stamp.
>
> (f) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

Revisor's Note

> Section 43.654(a), Parks and Wildlife Code, authorizes the Parks and Wildlife Department to issue a migratory or upland game bird stamp on payment of a $7 fee. The provision establishing the amount of the fee for the stamp is revised as Section 5152.0204, while the provision authorizing the issuance of the stamp on payment of the fee is revised in this section. The revised law is drafted accordingly.

Revised Law

Sec. 5152.0206. COLLECTOR'S EDITION OF STAMP. The commission may issue and sell a collector's edition of the migratory or upland game bird stamp that does not authorize hunting for a fee in an amount set by the commission. (Parks & Wild. Code,

Sec. 43.654(b).)

Source Law

(b) The commission may issue and sell a collector's edition of the migratory or upland game bird stamps that does not authorize hunting. The commission shall set the fee for a stamp issued under this subsection.

Revised Law

Sec. 5152.0207. USE OF STAMP IMAGE; ROYALTY PAYMENTS. The department may authorize the use of the image of a migratory or upland game bird stamp for a product that is offered to the public for sale and does not authorize hunting, provided that the department receives a reasonable royalty payment from the sale of a stamp product sold under this section. (Parks & Wild. Code, Sec. 43.654(c).)

Source Law

(c) The department may authorize the use of the image of a stamp issued under this subchapter for products offered to the public for sale and not for the purpose of authorizing hunting. The department shall receive a reasonable royalty payment for the sale of any stamp products sold under this subsection.

Revisor's Note

Section 43.654(c), Parks and Wildlife Code, provides that the Parks and Wildlife Department may authorize the use of the image of a migratory or upland game bird stamp for certain products and states that the department "shall receive a reasonable royalty payment" from the sale of those products. The revised law adds the phrase "provided" to clarify that the receipt of a reasonable royalty payment is a condition of the department authorizing the use of the image for such a product rather than an independent duty of the department.

Revised Law

Sec. 5152.0208. STAMP TERM. (a) A migratory or upland game bird stamp is valid for hunting only during the yearly period for which the stamp is issued without regard to the date the stamp is

acquired.

(b) Each yearly period for a migratory or upland game bird stamp:

(1) begins on September 1 of the year in which the stamp is issued or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission. (Parks & Wild. Code, Sec. 43.654(g).)

Source Law

(g) A stamp issued under this subchapter is valid for hunting only during the yearly period for which the stamp is issued, without regard to the date on which the stamp is acquired. Each yearly period begins on September 1 of the year in which the stamp is issued or another date set by the commission and extends through August 31 of the next year or another date set by the commission.

Revised Law

Sec. 5152.0209. HUNTING LICENSE REQUIREMENT AND HUNTING RESTRICTIONS NOT AFFECTED. A migratory or upland game bird stamp does not authorize a person to hunt a migratory or upland game bird:

(1) without a hunting license required by Chapter 5151; or

(2) at any time or by means not otherwise authorized by this code. (Parks & Wild. Code, Sec. 43.653.)

Source Law

Sec. 43.653. HUNTING LICENSE REQUIRED. The possession of either a migratory or upland game bird stamp does not authorize a person to hunt a migratory or upland game bird:

(1) without possessing a hunting license as provided by Chapter 42; or

(2) at any time or by means not otherwise authorized by this code.

Revisor's Note

Section 43.653, Parks and Wildlife Code, provides that "[t]he possession of either" a migratory or upland game bird stamp does not authorize a person to hunt a migratory or upland game bird without a hunting license. The revised law omits the quoted language as unnecessary because it does not add to the clear

meaning of the law.

Revised Law

Sec. 5152.0210. DISPOSITION OF MIGRATORY GAME BIRD STAMP NET REVENUE. (a) The net revenue derived from migratory game bird stamps shall be deposited to the credit of the game, fish, and water safety account established under Section 2052.0301.

(b) Net revenue derived from migratory game bird stamps consists of:

(1) revenue from the issuance of migratory game bird stamps;

(2) the amount allocated by the department from the net revenue of a combination license under Chapter 5155, if migratory game bird stamps are issued as part of the license;

(3) revenue from the sale of collector's editions of migratory game bird stamps issued under Section 5152.0206;

(4) payments, including royalty payments, received for the use of the migratory game bird stamp image authorized under Section 5152.0207; and

(5) interest and other earnings from the investment of remaining net revenue under Subsection (c).

(c) The comptroller shall invest the remaining net revenue, if any, in accordance with state law.

(d) Any net revenue under this section not used in a fiscal year remains in the game, fish, and water safety account and is exempt from the application of Section 403.095, Government Code. (Parks & Wild. Code, Sec. 43.655.)

Source Law

Sec. 43.655. DISPOSITION OF MIGRATORY GAME BIRD STAMP NET PROCEEDS. (a) The migratory game bird stamp net proceeds shall be deposited to the credit of the game, fish, and water safety account under Section 11.032 and may be used only for the purposes specified in Section 43.656.

(b) Net proceeds from the migratory game bird stamp consist of:

(1) proceeds from the issuance of migratory game bird stamps;

(2) the amount allocated by the department from the net proceeds of a combination license if migratory game bird stamps are issued as part of a

combination license under Chapter 50;

(3) proceeds from the sale of collector's editions of migratory game bird stamps, if issued under Section 43.654(b);

(4) payments, including royalty payments, received for the use of the migratory game bird stamp image authorized under Section 43.654(c); and

(5) interest and other earnings from the investment of remaining net proceeds under Subsection (c).

(c) The comptroller shall invest the remaining net proceeds, if any, in accordance with state law.

(d) Any net proceeds under this section not used in a fiscal year remain in the game, fish, and water safety account and are exempt from the application of Section 403.095, Government Code.

Revisor's Note

(1) Section 43.655, Parks and Wildlife Code, provides for the disposition of net "proceeds" from the sale of migratory game bird stamps. Throughout this chapter, in this and similar contexts, the revised law substitutes "revenue" for "proceeds" for consistency in terminology because, in context, the terms are synonymous and "revenue" is more commonly used.

(2) Section 43.655(a), Parks and Wildlife Code, refers to the game, fish, and water safety account under Section 11.032 of that code. Section 11.032 is revised in pertinent part as Section 2052.0301, and the revised law is drafted accordingly. Additionally, the revised law adds "established" for clarity and to provide consistency in phrasing in the revised code.

(3) Section 43.655(a), Parks and Wildlife Code, provides that migratory game bird stamp net proceeds "may be used only for the purposes specified in Section 43.656" of that code. The revised law omits the quoted language as unnecessary because the purposes specified in Section 43.656, revised as Section 5152.0211, apply on their own terms.

Revised Law

Sec. 5152.0211. USES OF NET REVENUE FROM MIGRATORY GAME BIRD STAMP. (a) Net revenue derived from migratory game bird

stamps may be used only for:

(1) the management of and research concerning migratory game birds;

(2) the acquisition, lease, or development of migratory game bird habitats; and

(3) contracts, donations, and grants under Section 5152.0214.

(b) The department shall use the net revenue in a manner that addresses the needs of migratory birds in this state. (Parks & Wild. Code, Sec. 43.656.)

Source Law

Sec. 43.656. USES OF NET PROCEEDS FROM MIGRATORY GAME BIRD STAMP. (a) Net proceeds from the migratory game bird stamp may be used only for:

(1) management of and research concerning migratory game birds;

(2) acquisition, lease, or development of migratory game bird habitats; and

(3) contracts, donations, and grants under Section 43.659.

(b) The department shall use the net proceeds from the migratory game bird stamp in a manner that addresses the needs of migratory birds in this state.

Revised Law

Sec. 5152.0212. DISPOSITION OF UPLAND GAME BIRD STAMP NET REVENUE. (a) The net revenue derived from upland game bird stamps shall be deposited to the credit of the game, fish, and water safety account established under Section 2052.0301.

(b) Net revenue derived from upland game bird stamps consists of:

(1) revenue from the issuance of upland game bird stamps;

(2) the amount allocated by the department from the net revenue of a combination license under Chapter 5155, if upland game bird stamps are issued as part of the license;

(3) revenue from the sale of collector's editions of upland game bird stamps issued under Section 5152.0206;

(4) payments, including royalty payments, received for the use of the upland game bird stamp image authorized under

Section 5152.0207; and

(5) interest and other earnings from the investment of remaining net revenue under Subsection (c).

(c) The comptroller shall invest the remaining net revenue, if any, in accordance with state law.

(d) Any net revenue under this section not used in a fiscal year remains in the game, fish, and water safety account and is exempt from the application of Section 403.095, Government Code. (Parks & Wild. Code, Sec. 43.657.)

Source Law

Sec. 43.657. DISPOSITION OF UPLAND GAME BIRD STAMP NET PROCEEDS. (a) The upland game bird stamp net proceeds shall be deposited to the credit of the game, fish, and water safety account under Section 11.032 and may be used only for the purposes specified in Section 43.658.

(b) Net proceeds from the upland game bird stamp consist of:

(1) proceeds from the issuance of upland game bird stamps;

(2) the amount allocated by the department from the net proceeds of a combination license if upland game bird stamps are issued as part of a combination license under Chapter 50;

(3) proceeds from the sale of collector's editions of upland game bird stamps, if issued under Section 43.654(b);

(4) payments, including royalty payments, received for the use of the upland game bird stamp image authorized under Section 43.654(c); and

(5) interest and other earnings from the investment of remaining net proceeds under Subsection (c).

(c) The comptroller shall invest the remaining net proceeds, if any, in accordance with state law.

(d) Any net proceeds under this section not used in a fiscal year remain in the game, fish, and water safety account and are exempt from the application of Section 403.095, Government Code.

Revisor's Note

Section 43.657(a), Parks and Wildlife Code, provides that upland game bird stamp net proceeds "may be used only for the purposes specified in Section 43.658" of that code. The revised law omits the quoted language as unnecessary because the purposes specified in Section 43.658, revised as Section 5152.0213, apply on their own terms.

Revised Law

Sec. 5152.0213. USES OF NET REVENUE FROM UPLAND GAME BIRD STAMP. (a) Net revenue derived from upland game bird stamps may be used only for:

(1) the management of and research concerning upland game birds;

(2) the acquisition, lease, or development of upland game bird habitats; and

(3) contracts, donations, and grants under Section 5152.0214.

(b) The department shall use the net revenue in a manner that addresses the needs of upland game birds in this state. (Parks & Wild. Code, Sec. 43.658.)

Source Law

> Sec. 43.658. USES OF NET PROCEEDS FROM UPLAND GAME BIRD STAMP. (a) Net proceeds from the upland game bird stamp may be used only for:
>
> (1) management of and research concerning upland game birds;
>
> (2) acquisition, lease, or development of upland game bird habitats; and
>
> (3) contracts, donations, and grants under Section 43.659.
>
> (b) The department shall use the net proceeds from the upland game bird stamp in a manner that addresses the needs of upland game birds in this state.

Revised Law

Sec. 5152.0214. CONTRACTS, DONATIONS, AND GRANTS. The department may make money available in advance or by reimbursement to appropriate state, regional, national, and international governmental and nonprofit organizations through contracts, donations, and grants. The money may be used to acquire, develop, and maintain migratory and upland game bird habitat areas in the United States, Canada, the United Mexican States, or another country that provides migratory habitat for the Central Flyway. (Parks & Wild. Code, Sec. 43.659.)

Source Law

> Sec. 43.659. CONTRACTS, DONATIONS, AND GRANTS. As allowed under state and federal law, the department may make money available in advance or by reimbursement to appropriate state, regional,

national, and international governmental and nonprofit organizations through contracts, donations, and grants. The money may be used to acquire, develop, and maintain migratory and upland game bird habitat areas in the United States, Canada, Mexico, or another country that provides migratory habitat for the Central Flyway.

Revisor's Note

(1) Section 43.659, Parks and Wildlife Code, provides that the Parks and Wildlife Department may make money available to certain entities "[a]s allowed under state and federal law." The revised law omits the quoted language as unnecessary. To the extent that state or federal law limits the authority of the department to make money available to those entities, that law applies to the department on its own terms.

(2) Section 43.659, Parks and Wildlife Code, refers to "Mexico." The revised law substitutes "the United Mexican States" for "Mexico" to reflect the official name of that nation.

Revised Law

Sec. 5152.0215. RECIPROCAL AGREEMENTS RELATING TO MIGRATORY GAME BIRDS. (a) As provided by Chapter 5156, the department may negotiate a reciprocal agreement with a state that:

(1) shares a common border with this state; and

(2) has a migratory game bird stamp requirement and fee similar to those of this state.

(b) The reciprocal agreement may authorize a resident of the other state to hunt a migratory game bird in this state without a stamp issued under this subchapter if the resident holds a stamp issued by the other state. (Parks & Wild. Code, Sec. 43.661.)

Source Law

Sec. 43.661. RECIPROCAL AGREEMENTS RELATING TO MIGRATORY GAME BIRDS. As provided by Chapter 41, the department may negotiate a reciprocal agreement with a state that shares a common boundary with this state if the neighboring state has a similar migratory game bird stamp requirement and fee. The reciprocal agreement may permit a resident of the state with which the reciprocal agreement is made to hunt a migratory game bird in this state without a stamp issued under this subchapter if the person possesses a stamp issued

by the other state.

Revised Law

Sec. 5152.0216. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 5152.0202.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor.

(c) A person hunting a migratory or upland game bird who refuses on demand of a peace officer to show the applicable stamp or proof that the person is exempt under Section 5152.0203 is presumed to be in violation of Section 5152.0202. (Parks & Wild. Code, Secs. 43.660, 43.665.)

Source Law

> Sec. 43.660. REFUSAL TO SHOW STAMP OR PROOF OF EXEMPTION ELIGIBILITY. A person hunting a migratory or upland game bird who refuses on demand of any game warden or other peace officer to show the applicable stamp, or proof that the person is exempt under Section 43.652(b), is presumed to be in violation of Section 43.652.
>
> Sec. 43.665. PENALTY. A person who violates Section 43.652 commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

Sections 43.660 and 43.665, Parks and Wildlife Code, refer to a violation of Section 43.652 of that code. Section 43.652 is revised in pertinent part as Section 5152.0202, and the revised law is drafted accordingly.

SUBCHAPTER C. REPTILE AND AMPHIBIAN STAMP

Revised Law

Sec. 5152.0301. REPTILE AND AMPHIBIAN STAMP REQUIRED. Except as provided by Section 5152.0302, a person may capture by nonlethal means an indigenous reptile or amphibian on the shoulder of a road, as defined by Section 541.302, Transportation Code, or the unpaved area of a public right-of-way only if the person holds a reptile and amphibian stamp issued to the person by the department. (Parks & Wild. Code, Sec. 43.901(a).)

Source Law

Sec. 43.901. REPTILE AND AMPHIBIAN STAMP REQUIRED. (a) Except as provided by Section 43.905, a person may capture by nonlethal means an indigenous reptile or amphibian on the shoulder of a road, as defined by Section 541.302, 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 department.

Revised Law

Sec. 5152.0302. EXEMPTIONS. A person is exempt from the requirement to hold a hunting license under Chapter 5151 or a reptile and amphibian stamp under Section 5152.0301 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 the operation and maintenance of pipelines and related facilities or to oil or gas exploration or production;

(2) an employee of this state, a utility, as defined by Section 203.091, Transportation Code, or a power generation company, as defined by Section 31.002, Utilities Code, and is acting in the course and scope of the person's employment with this 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, Natural Resources Code. (Parks & Wild. Code, Sec. 43.905.)

Source Law

Sec. 43.905. EXEMPTIONS. 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 the operation and maintenance of pipelines and related facilities or to oil or gas exploration or production;

(2) an employee of the state, a utility, as defined by Section 203.091, Transportation Code, or a power generation company, as defined by Section 31.002, 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, Natural Resources Code.

Revised Law

Sec. 5152.0303. STAMP FEE. The fee for a reptile and amphibian stamp is $10. (Parks & Wild. Code, Sec. 43.902 (part).)

Source Law

> Sec. 43.902. FEE. The fee for a reptile and amphibian stamp is $10. . . .

Revised Law

Sec. 5152.0304. FORM AND MANNER OF ISSUANCE OF STAMP. (a) The commission by rule shall prescribe the form, design, and manner of issuance of a reptile and amphibian stamp.

(b) A reptile and amphibian stamp is not valid unless the person to whom the stamp is issued has signed the stamp on its face.

(c) The commission by rule may prescribe alternative requirements for identifying the purchaser of a reptile and amphibian stamp issued in an automated manner. (Parks & Wild. Code, Secs. 43.901(b), (c), (d).)

Source Law

> (b) The commission by rule shall prescribe the form, design, and manner of issuance of a stamp under this subchapter.
>
> (c) The stamp is not valid unless the person to whom the stamp is issued has signed the stamp on its face.
>
> (d) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

Revised Law

Sec. 5152.0305. OTHER EDITIONS OF STAMP. The department may issue other editions of the reptile and amphibian stamp that do not authorize capturing by nonlethal means a species covered by this subchapter for a fee in an amount set by the commission. (Parks & Wild. Code, Sec. 43.902 (part).)

Source Law

> Sec. 43.902. . . . The department may 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.

Revisor's Note

Section 43.902, Parks and Wildlife Code, provides that the Parks and Wildlife Department may issue

editions of the stamp that "are not valid for" capturing a species covered by Subchapter W, Chapter 43, of that code. The revised law substitutes "do not authorize" for the quoted language for the reasons stated in the revisor's note to Section 5152.0105.

Revised Law

Sec. 5152.0306. STAMP TERM. (a) A reptile and amphibian stamp is valid only during the yearly period for which the stamp is issued without regard to the date the stamp is acquired.

(b) Each yearly period for a reptile and amphibian stamp:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission. (Parks & Wild. Code, Sec. 43.901(e).)

Source Law

(e) 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. 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.

Revised Law

Sec. 5152.0307. HUNTING LICENSE REQUIREMENT AND HUNTING RESTRICTIONS NOT AFFECTED. A reptile and amphibian stamp does not authorize a person to capture by nonlethal means an indigenous reptile or amphibian:

(1) without holding a hunting license required by Chapter 5151; or

(2) at a time or by means not otherwise authorized by this code. (Parks & Wild. Code, Sec. 43.903.)

Source Law

Sec. 43.903. HUNTING LICENSE REQUIRED. The possession of a reptile and amphibian stamp does not authorize a person to capture by nonlethal means an indigenous reptile or amphibian:

(1) without possessing a hunting license required by Section 42.002 or 42.005; or

(2) at a time or by means not otherwise

authorized by this code.

Revisor's Note

(1) Section 43.903, Parks and Wildlife Code, provides that "[t]he possession of" a reptile and amphibian stamp does not authorize a person to capture an indigenous reptile or amphibian without a hunting license. The revised law omits the quoted language as unnecessary because it does not add to the clear meaning of the law.

(2) Section 43.903, Parks and Wildlife Code, refers to a hunting license required by Section 42.002 or 42.005 of that code. Sections 42.002 and 42.005 are revised in Chapter 5151 of this code. For consistency in the phrasing used in this chapter, the revised law substitutes a reference to Chapter 5151 for the references to Sections 42.002 and 42.005. Although Chapter 5151 also includes the revision of other provisions, it is appropriate to refer to the chapter in its entirety because those other provisions do not contain a requirement to hold a hunting license.

Revised Law

Sec. 5152.0308. DISPOSITION OF NET REVENUE FROM SALE OF STAMPS. The net revenue derived from the sale of reptile and amphibian stamps shall be credited to the game, fish, and water safety account. (Parks & Wild. Code, Sec. 43.904.)

Source Law

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

Revised Law

Sec. 5152.0309. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 5152.0301.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor.

(c) A person, other than a person exempt under Section

5152.0302, who is engaged in capturing by nonlethal means a species covered by this subchapter in an area described by Section 5152.0301 and fails on the demand of a peace officer to show a reptile and amphibian stamp is presumed to be in violation of Section 5152.0301. (Parks & Wild. Code, Sec. 43.906.)

Source Law

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

Revisor's Note

(1) Section 43.906(a), Parks and Wildlife Code, refers to a violation of Section 43.901 of that code, and Section 43.906(b) of that code refers to an area described by and a violation of Section 43.901 of that code. Section 43.901 is revised in pertinent part as Section 5152.0301, and the revised law is drafted accordingly.

(2) Section 43.906(b), Parks and Wildlife Code, refers to a person who "fails or refuses" to show a reptile and amphibian stamp. The revised law omits "refuses" for the reason stated in Revisor's Note (3) to Section 5152.0110.

CHAPTER 5153. GENERAL FISHING LICENSES

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5153.0101. DETERMINATION OF RESIDENCY STATUS. (a) For purposes of this chapter, a person is considered a resident if the person is:

(1) an individual who has resided continuously in this state for more than six months immediately before applying for a fishing license required by this chapter;

(2) a member of the United States armed forces on active duty;

(3) a dependent of a member of the United States armed forces on active duty; or

(4) a member of another category of individuals that the commission by regulation designates as residents.

(b) For purposes of this chapter, a person is considered a nonresident if the person is an individual not described by Subsection (a). (Parks & Wild. Code, Sec. 46.0011.)

Source Law

Sec. 46.0011. RESIDENT AND NONRESIDENT DEFINED. In this chapter:

(1) "Resident" means:

(A) an individual who has resided continuously in this state for more than six months immediately before applying for a fishing license required by this chapter;

(B) a member of the United States armed forces on active duty;

(C) a dependent of a member of the United States armed forces on active duty; or

(D) a member of any other category of individuals that the commission by regulation designates as residents.

(2) "Nonresident" means an individual who is not a resident.

Revisor's Note

Section 46.0011(1)(A), Parks and Wildlife Code, refers to a fishing license required by "this chapter," meaning Chapter 46 of that code. Throughout this chapter, in this and similar contexts, the revised law retains references to "this chapter" where appropriate because the pertinent parts of Chapter 46 are revised in this chapter.

SUBCHAPTER B. LICENSE REQUIRED

Revised Law

Sec. 5153.0201. FISHING LICENSE REQUIRED. (a) In this section, "tidal water" has the meaning assigned by Section 5158.0101.

(b) Except as provided by Subchapter C, unless a person holds a fishing license issued under this chapter, the person may

not:

(1) fish in the public water of this state;

(2) unload in this state fish or other aquatic life taken for sporting purposes from waters managed by the Gulf of Mexico Fishery Management Council established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Section 1801 et seq.); or

(3) while in a vessel on tidal water, possess fish taken for sporting purposes. (Parks & Wild. Code, Secs. 46.001(a) (part), (b).)

Source Law

> Sec. 46.001. PROHIBITED ACTS. (a) No person may fish in the public water of this state, or unload in this state fish or other aquatic life taken for sporting purposes from waters managed by the Gulf of Mexico Fishery Management Council established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Section 1801 et seq.), unless the person has acquired a fishing license issued under this subchapter, except as provided by Sections 46.0012 and 46.002. . . .
>
> (b) A person in a vessel on tidal water may not possess fish taken for sporting purposes unless the person holds a fishing license issued under this subchapter, except as provided by Sections 46.0012 and 46.002. In this subsection, "tidal water" has the meaning assigned by Section 47.001.

Revisor's Note

Section 46.001, Parks and Wildlife Code, provides that, except as provided by Sections 46.0012 and 46.002 of that code, a person may not engage in certain activities related to fishing unless the person holds a fishing license. Sections 46.0012 and 46.002 are revised in Subchapter C of this chapter. Although Subchapter C also includes the revision of other provisions, the revised law substitutes "Subchapter C" for the references to Sections 46.0012 and 46.002 for the convenience of the reader because the additional provisions revised in that subchapter also describe exceptions to the general rule in Section 46.001.

Revised Law

Sec. 5153.0202. LIFETIME RESIDENT FISHING LICENSE. The department may issue a lifetime resident fishing license to a resident of this state. (Parks & Wild. Code, Sec. 46.004(d) (part).)

Source Law

> (d) The department may issue a lifetime resident fishing license to residents of this state. . . .

Revised Law

Sec. 5153.0203. TEMPORARY SPORTFISHING LICENSE. (a) A resident of this state or another person designated by the commission is entitled to receive from the department a temporary sportfishing license allowing fishing for sporting purposes in public water for 14 consecutive days or for another period set by the commission.

(b) The commission may authorize the issuance of more than one type of license under Subsection (a) and may prescribe the categories of persons to whom the licenses may be issued. (Parks & Wild. Code, Sec. 46.005(a).)

Source Law

> Sec. 46.005. TEMPORARY SPORTFISHING LICENSES. (a) Any person who is a Texas resident or other person designated by the commission is entitled to receive from the department a license allowing fishing for sporting purposes in public water for a period of 14 consecutive days or other period set by the commission. The commission may authorize the issuance of more than one type of license under this subsection and may prescribe the categories of persons to whom the licenses may be issued.

Revised Law

Sec. 5153.0204. TEMPORARY NONRESIDENT SPORTFISHING LICENSE. (a) A nonresident or another person designated by the commission is entitled to receive from the department a temporary nonresident sportfishing license allowing fishing for sporting purposes in public water for five consecutive days or for another period set by the commission.

(b) The commission may authorize the issuance of more than one type of license under Subsection (a) and may prescribe the

categories of persons to whom the licenses may be issued. (Parks & Wild. Code, Sec. 46.0051(a).)

Source Law

> Sec. 46.0051. TEMPORARY NONRESIDENT LICENSES. (a) A nonresident or other person designated by the commission is entitled to receive from the department a license allowing fishing for sporting purposes in public water for a period of five consecutive days or other period set by the commission. The commission may authorize the issuance of more than one type of license under this subsection and may prescribe the categories of persons to whom the licenses may be issued.

Revised Law

Sec. 5153.0205. FISHING UNDER LICENSE OF ANOTHER PERSON PROHIBITED. A person may not:

(1) fish under a license issued to another person; or

(2) allow another person to fish under a license issued to the person. (Parks & Wild. Code, Sec. 46.014.)

Source Law

> Sec. 46.014. FISHING UNDER THE LICENSE OF ANOTHER. No person may fish under a license issued to another or allow another person to fish under a license issued to him.

SUBCHAPTER C. EXCEPTIONS

Revised Law

Sec. 5153.0301. EXEMPTIONS. (a) A person is exempt from the requirement to hold a fishing license under Section 5153.0201 if the person:

(1) is a resident whose birth date is before January 1, 1931;

(2) is a nonresident whose birth date is before September 1, 1930, and whose state of residence grants a similar age exemption to residents of this state;

(3) has a mental illness or developmental or intellectual disability and is engaged in recreational fishing:

(A) as part of medically approved therapy under the immediate supervision of personnel approved or employed by a hospital, residence, or school for persons with mental illness or developmental or intellectual disabilities; or

(B) under the immediate supervision of a person who:

(i) holds a license issued under this chapter; and

(ii) if not a member of the family of the person with a mental illness or developmental or intellectual disability, has the permission of the family head or legal guardian of the person with a mental illness or developmental or intellectual disability to take the person with a mental illness or developmental or intellectual disability fishing;

(4) is participating in an event that is sponsored or co-sponsored by the department with the approval of the executive director; or

(5) is a resident and a veteran of the United States armed forces, if the person is acting under Subchapter D, Chapter 2060, and complying with rules adopted under that subchapter.

(b) A person with a mental illness or developmental or intellectual disability who is engaged in recreational fishing under Subsection (a)(3)(A) must carry an authorization identifying the entity supplying the service. The authorization may be in the form of a tag that contains the name of the sponsoring entity.

(c) A person with a mental illness or developmental or intellectual disability who is engaged in recreational fishing under Subsection (a)(3)(B) must carry a note from a doctor stating that the person has been diagnosed with a mental illness or developmental or intellectual disability. (Parks & Wild. Code, Sec. 46.002.)

Source Law

Sec. 46.002. EXEMPTIONS. (a) A license issued under this chapter is not required of a person:

(1) who is a resident and whose birth date is before January 1, 1931;

(2) who is a nonresident, if the person's birth date is before September 1, 1930, and the person's state of residence grants a similar age exemption to Texas residents;

(3) with a mental illness or developmental or intellectual disability who is engaged in recreational fishing as part of medically approved

therapy under the immediate supervision of personnel approved or employed by a hospital, residence, or school for persons with mental illnesses or developmental or intellectual disabilities;

(4) with a mental illness or developmental or intellectual disability who is engaged in recreational fishing under the immediate supervision of a person who:

(A) holds a license issued under this chapter; and

(B) if not a member of the family of the person with a mental illness or developmental or intellectual disability, has the permission of the family head or legal guardian of the person with a mental illness or developmental or intellectual disability to take the person with a mental illness or developmental or intellectual disability fishing;

(5) who is participating in an event that is sponsored or co-sponsored by the department with the approval of the director; or

(6) who is a resident and who is a veteran of the United States armed forces, if the person is acting under Section 11.208 and complying with rules adopted under that section.

(b) The person with a mental illness or developmental or intellectual disability who is recreationally fishing under Subsection (a)(3) shall carry an authorization identifying the entity supplying the service. This authorization may be in the form of a tag that contains the name of the sponsoring entity.

(c) A person with a mental illness or developmental or intellectual disability who is engaged in recreational fishing under Subsection (a)(4) must carry a note from a doctor stating that the person has been diagnosed with a mental illness or developmental or intellectual disability.

Revised Law

Sec. 5153.0302. WAIVER FOR CERTAIN INDIVIDUALS. The commission may waive the requirement to hold a fishing license under Section 5153.0201 for:

(1) a resident who has a general commercial fisherman's license of this state;

(2) a resident who is a blind person as defined by Section 355.001, Labor Code;

(3) a resident or nonresident who is younger than 17 years of age; or

(4) a resident or nonresident who is 65 years of age or older. (Parks & Wild. Code, Sec. 46.004(b) (part).)

Source Law

(b) The commission may . . . waive the . . . license requirement for:

(1) a resident who has a general commercial fisherman's license of this state;

(2) a resident who is blind as defined by Section 94.001, Human Resources Code;

(3) a resident or nonresident who is under 17 years old; or

(4) a resident or nonresident who is 65 years old or over.

Revisor's Note

Section 46.004(b)(2), Parks and Wildlife Code, refers to a resident who is "blind as defined by Section 94.001, Human Resources Code." Section 94.001 was redesignated as Section 355.001, Labor Code, and amended by Chapter 1138 (S.B. 208), Acts of the 84th Legislature, Regular Session, 2015. Additionally, that section defines "blind person" rather than "blind." The revised law is drafted accordingly.

Revised Law

Sec. 5153.0303. FREE SPORTFISHING DAY. (a) A person is not required to hold a fishing license to fish for sporting purposes in public water on the first Saturday in June of each year.

(b) This section applies only to license requirements and does not affect other provisions of this code relating to the taking or possession of fish for sporting purposes. (Parks & Wild. Code, Sec. 46.0012.)

Source Law

Sec. 46.0012. FREE SPORTFISHING DAY. On the first Saturday in June of each year, a fishing license is not required of any person fishing for sporting purposes in public water. This section is limited to license requirements and does not affect other provisions of this code relating to the taking or possession of fish for sporting purposes.

SUBCHAPTER D. FEES

Revised Law

Sec. 5153.0401. LICENSE FEES; WAIVER. (a) The fee for a resident fishing license is $8 or a greater amount set by the commission.

(b) The commission may establish a lower fee or waive the fee for a person described by Section 5153.0302.

(c) The commission shall waive the fee for:

(1) a veteran described by Section 5151.0401; and

(2) a resident on active duty as a member of the United States military forces, the Texas Army National Guard, the Texas Air National Guard, or the Texas State Guard.

(d) The fee for a nonresident fishing license is $15 or a greater amount set by the commission.

(e) The commission may establish collection and issuance fees for licenses and tags issued under this chapter. (Parks & Wild. Code, Secs. 46.004(a), (b) (part), (c), (e), (f).)

Source Law

> Sec. 46.004. LICENSE FEES. (a) The resident fishing license fee is $8 or an amount set by the commission, whichever amount is more.
>
> (b) The commission may establish a lower fee or waive the fee or . . . for:
>
> (1) a resident who has a general commercial fisherman's license of this state;
>
> (2) a resident who is blind as defined by Section 94.001, Human Resources Code;
>
> (3) a resident or nonresident who is under 17 years old; or
>
> (4) a resident or nonresident who is 65 years old or over.
>
> (c) The commission shall waive the fee for a qualified veteran with a disability as defined by Section 42.012 and for a resident on active duty as a member of the United States military forces, the Texas Army National Guard, the Texas Air National Guard, or the Texas State Guard.
>
> (e) The nonresident fishing license fee is $15 or an amount set by the commission, whichever amount is more.
>
> (f) The commission may establish collection and issuance fees for licenses and tags issued under this chapter.

Revisor's Note

Section 46.004(c), Parks and Wildlife Code, refers to a qualified veteran with a disability as "defined by Section 42.012" of that code, which is revised in pertinent part in Section 5151.0401. As revised, that section substitutes the substance of the definition of the term "qualified veteran with a disability" for the term where it appears in that section and omits the definition. The revised law accordingly substitutes "described by Section 5151.0401" for "defined by Section 42.012."

Revised Law

Sec. 5153.0402. LIFETIME RESIDENT FISHING LICENSE FEE. The fee for a lifetime resident fishing license is $300 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 46.004(d) (part).)

Source Law

(d) . . . The fee for this license is $300 or an amount set by the commission, whichever amount is more.

Revised Law

Sec. 5153.0403. TEMPORARY SPORTFISHING LICENSE FEE. The fee for a temporary sportfishing license is an amount set by the commission. (Parks & Wild. Code, Sec. 46.005(b).)

Source Law

(b) The fee for a temporary sportfishing license is an amount set by the commission.

Revised Law

Sec. 5153.0404. TEMPORARY NONRESIDENT SPORTFISHING LICENSE FEE. The fee for a temporary nonresident sportfishing license is an amount set by the commission. (Parks & Wild. Code, Sec. 46.0051(b).)

Source Law

(b) The fee for a license is an amount set by the commission.

SUBCHAPTER E. TAGS

Revised Law

Sec. 5153.0501. FINFISH TAGS AUTHORIZED. The department may issue tags for finfish species allowed by law to be taken during each year or season from coastal waters of this state to holders of licenses authorizing the taking of finfish species or to other categories of persons. (Parks & Wild. Code, Sec. 46.0085(c).)

Source Law

(c) The department may issue tags for finfish species allowed by law to be taken during each year or season from coastal waters of the state to holders of licenses authorizing the taking of finfish species or to other categories of persons.

Revised Law

Sec. 5153.0502. TAG FEES. The commission by rule may establish fees for initial and duplicate tags issued under this subchapter. (Parks & Wild. Code, Sec. 46.0045.)

Source Law

> Sec. 46.0045. TAG FEES. The commission by rule may establish fees for initial and duplicate tags issued under this subchapter.

Revised Law

Sec. 5153.0503. EXHIBITING TAG. A person required to hold a tag issued under this subchapter shall show the tag to an officer on the officer's request. (Parks & Wild. Code, Sec. 46.015(a) (part).)

Source Law

> Sec. 46.015. PENALTY. (a) A person [who violates a provision of this subchapter or], except as provided by Subsection (b) of this section, who fails or refuses to show an officer his . . . tag on the request of the officer [commits an offense that is a Class C Parks and Wildlife Code misdemeanor].

Revisor's Note

Section 46.015(a), Parks and Wildlife Code, provides that, except as provided by Section 46.015(b) of that code, a person who fails or refuses to show an officer the person's tag on the request of the officer commits an offense. For clarity, the revised law restates the provision as an affirmative duty to show the tag rather than a prohibition on failing or refusing to show the tag. The revised law revises the provision making violation of the requirement to show the tag on request an offense as Section 5153.9901 and revises the exception to the offense as Section 5153.9902.

Revised Law

Sec. 5153.0504. PROHIBITED ACTS RELATING TO FINFISH TAGS. (a) A person may not purchase or use more finfish tags during a license year than the number and type authorized for the year by the

commission, excluding duplicate tags issued under Section 5153.0604.

(b) Except as provided by Subsection (c), a person may not:

(1) use the same finfish tag on more than one finfish;

(2) use a finfish tag issued in the name of another person;

(3) use a tag on a finfish for which a different tag is specifically required; or

(4) take a finfish required to be tagged and fail to immediately attach a properly executed tag to the finfish in the manner prescribed by the commission.

(c) The commission by rule may modify or eliminate the requirements of this section. (Parks & Wild. Code, Sec. 46.0086.)

Source Law

Sec. 46.0086. FINFISH TAGS: PROHIBITED ACTS. (a) No person may purchase or use more finfish tags during a license year than the number and type authorized for the year by the commission, excluding duplicate tags issued under Section 46.006 of this code.

(b) Except as provided by Subsection (c), no person may:

(1) use the same finfish tag on more than one finfish;

(2) use a finfish tag issued in the name of another;

(3) use a tag on a finfish for which another tag is specifically required; or

(4) take a finfish required to be tagged and fail to immediately attach a properly executed tag to the finfish in the manner prescribed by the commission.

(c) The commission by rule may modify or eliminate the requirements of this section.

SUBCHAPTER F. GENERAL LICENSE AND TAG PROVISIONS

Revised Law

Sec. 5153.0601. FORM AND ISSUANCE OF LICENSES AND TAGS. (a) The department shall prescribe the form and manner of issuance of and issue the licenses and tags authorized by this chapter.

(b) The commission by rule may prescribe identification and compliance requirements.

(c) A license or tag issued under this chapter is not valid unless the person to whom it is issued completes all required

information on the license or tag.

(d) A license issued under this chapter must contain information determined by the commission to be necessary.

(e) A person may not issue or accept a license or tag required by this chapter except on a form prescribed by the department. (Parks & Wild. Code, Secs. 46.008, 46.0085(a), (b), 46.013.)

Source Law

> Sec. 46.008. LICENSE INFORMATION. A license issued under this subchapter must contain information determined by the commission to be necessary.
>
> Sec. 46.0085. FORM AND ISSUANCE OF LICENSES AND TAGS. (a) The department shall issue and prescribe the form and manner of issuance of the licenses and tags authorized by this chapter. The commission by rule may prescribe identification and compliance requirements.
>
> (b) A license and tag issued under this chapter is not valid until the person to whom it is issued completes all required information on the license and tag.
>
> Sec. 46.013. ISSUANCE OR ACCEPTANCE OF LICENSE. No person may issue or accept a license or tag required by this subchapter except on a form provided by the department.

Revised Law

Sec. 5153.0602. LICENSE AND TAG TERMS. (a) For purposes of this section, a yearly period for a license:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission.

(b) Except as provided by Subsections (c), (d), (e), (f), and (g), a license required or authorized by this chapter is valid only during the yearly period for which it is issued without regard to the date the license is acquired.

(c) A temporary sportfishing license issued under Section 5153.0203 or a temporary nonresident sportfishing license issued under Section 5153.0204 is valid for the number of consecutive days authorized.

(d) A resident or nonresident fishing license described by

Section 5153.0401 that is issued before the first day of the applicable yearly period and that does not expire until the last day of the applicable yearly period is valid from the date of issuance through the last day of the applicable yearly period.

(e) A lifetime resident fishing license is valid for the lifetime of the license holder.

(f) A duplicate license is valid only for the period of validity of the original license.

(g) A tag or duplicate tag required or authorized by this chapter is valid for a period established by the commission. (Parks & Wild. Code, Secs. 46.007(a) (part), (b), (c), (d), (e), (f).)

Source Law

> Sec. 46.007. EXPIRATION OF LICENSES AND TAGS. (a) Except as provided by Subsections (b), (c), (d), (e), and (f) of this section, a license required or authorized by this subchapter is valid only during the yearly period for which it is issued without regard to the date on which the license is acquired. 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. . . .
>
> (b) A license issued under Section 46.005 or 46.0051 of this code is valid for the number of consecutive days authorized and does not necessarily expire on August 31 or another date set by the commission.
>
> (c) A tag or duplicate tag required or authorized by this subchapter is valid for a period as established by the commission.
>
> (d) A license issued under Section 46.004 of this code that is issued before September 1 or another date set by the commission and does not expire until August 31 of the following year or another date set by the commission is valid from the date of issuance through August 31 of the following year or another date set by the commission.
>
> (e) A lifetime resident fishing license is valid for the lifetime of the license holder.
>
> (f) A duplicate license is valid for the period of validity of the original license only.

Revisor's Note

(1) Section 46.007(b), Parks and Wildlife Code, provides that a temporary sportfishing license and a temporary nonresident sportfishing license are valid for the number of consecutive days authorized and "[do] not necessarily expire on August 31 or another date set by the commission." The revised law omits the

quoted language as unnecessary because it does not add to the clear meaning of the law.

(2) Section 46.007(d), Parks and Wildlife Code, provides that a license "issued under" Section 46.004 of that code that is issued before September 1 or another date set by the commission and does not expire until August 31 of the following year or another date set by the commission is valid from the date of issuance through August 31 of the following year or another date set by the commission. Section 46.004 is revised in pertinent part as Section 5153.0401. The revised law refers to a license "described by" Section 5153.0401 rather than a license "issued under" that section because that section merely describes certain licenses rather than authorizing their issuance.

Revised Law

Sec. 5153.0603. LICENSE ISSUED FOR TRANSITION PERIOD. The commission by rule may:

(1) provide for a license term for a transition period that is less than or exceeds one year; and

(2) set the fee for a license issued during a transition period at an amount less than the amount prescribed by Subchapter D for that license. (Parks & Wild. Code, Sec. 46.007(a) (part).)

Source Law

(a) . . . The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this section and provide for a license term for a transition period that is shorter or longer than a year.

Revisor's Note

Section 46.007(a), Parks and Wildlife Code, provides that the Parks and Wildlife Commission may set the amount of a license fee for a license issued during a transition period at an amount lower than

prescribed in "this section," meaning Section 46.007 of that code. Section 46.007 does not prescribe a license fee. It is clear from the context that "this section" is a drafting error and that the legislature intended to refer to "this subchapter," meaning Subchapter A, Chapter 46, Parks and Wildlife Code. The provisions of that subchapter related to license fees are revised in Subchapter D of this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 5153.0604. DUPLICATE LICENSE OR TAG. (a) If a license issued under this chapter is lost or destroyed, a license deputy may issue a duplicate license on application of the license holder and receipt of $5 or a greater amount set by the commission.

(b) If a tag issued under this chapter is lost or destroyed, a license deputy may issue a duplicate tag on application of the tag holder and payment of a fee set by the commission under Section 5153.0502.

(c) The application for a duplicate license or tag must be an affidavit containing:

(1) a statement of fact concerning the loss or destruction of the license or tag; and

(2) any other information that the commission by regulation may prescribe as necessary. (Parks & Wild. Code, Sec. 46.006.)

Source Law

Sec. 46.006. DUPLICATE LICENSE OR TAG. (a) If a license issued under this subchapter is lost or destroyed, a license deputy may issue a duplicate license on application of the license holder and receipt of $5 or an amount set by the commission, whichever amount is more. If a tag issued under this subchapter is lost or destroyed, a license deputy may issue a duplicate tag on application of the tag holder and payment of a fee set by the commission under Section 46.0045 of this code.

(b) The application for a duplicate license or tag must be an affidavit containing:

(1) a statement of fact concerning the loss or destruction of the license or tag; and

(2) any other information which the

commission by regulation may prescribe as necessary.

Revised Law

Sec. 5153.0605. COMMISSION RULES RELATING TO POSSESSION OF LICENSE. The commission by rule may prescribe requirements relating to possessing a fishing license required by this chapter. (Parks & Wild. Code, Sec. 46.001(a) (part).)

Source Law

> (a) . . . The commission by rule may prescribe requirements relating to possessing a license required by this subchapter.

Revised Law

Sec. 5153.0606. ELECTRONIC DISPLAY OF LICENSE. (a) Rules adopted under Section 5153.0601(b) must allow for a person to present, for the purpose of verifying that the person holds a fishing license, an image displayed on a wireless communication device. The image displayed may be:

(1) an image of information from the department's Internet website; or

(2) a photograph of a fishing license.

(b) The display of an image that includes fishing license information on a wireless communication device under this section does not constitute effective consent for a peace officer or any other person to access the contents of the wireless communication device except to view the fishing license information.

(c) The authorization of the use of a wireless communication device to display fishing license information under Subsection (a) does not prevent a court from requiring a person to provide a paper copy of the person's fishing license in a hearing or trial or in connection with discovery proceedings.

(d) A telecommunications provider, as defined by Section 51.002, Utilities Code, may not be held liable to the holder of a fishing license for the failure of a wireless communication device to display fishing license information under Subsection (a). (Parks & Wild. Code, Secs. 46.0085(d), (e), (f), (g).)

Source Law

(d) Rules adopted under Subsection (a) must allow for a person to present for the purpose of verification of possession a fishing license as an image displayed on a wireless communication device. The image displayed may be either an image of information from the Internet website of the department or a photograph of a fishing license.

(e) The display of an image that includes fishing license information on a wireless communication device under this section does not constitute effective consent for a law enforcement officer, or any other person, to access the contents of the wireless communication device except to view the fishing license information.

(f) The authorization of the use of a wireless communication device to display fishing license information under Subsection (d) does not prevent a court of competent jurisdiction from requiring a person to provide a paper copy of the person's fishing license in a hearing or trial or in connection with discovery proceedings.

(g) A telecommunications provider, as defined by Section 51.002, Utilities Code, may not be held liable to the holder of a fishing license for the failure of a wireless communication device to display fishing license information under Subsection (d).

Revisor's Note

(1) Section 46.0085(d), Parks and Wildlife Code, refers to rules adopted under Section 46.0085(a) of that code. Section 46.0085(a) is revised in pertinent part as Section 5153.0601(b), and the revised law is drafted accordingly.

(2) Section 46.0085(e), Parks and Wildlife Code, refers to the display of an image on a wireless communication device under Section 46.0085 of that code. The pertinent parts of Section 46.0085 relating to the display of an image on a wireless communication device are revised in this section, and the revised law is drafted accordingly.

(3) Section 46.0085(e), Parks and Wildlife Code, refers to a "law enforcement officer." The revised law substitutes "peace officer" for "law enforcement officer" for the reason stated in the revisor's note to Section 5104.0206.

(4) Section 46.0085(f), Parks and Wildlife

Code, provides that the use of a wireless communication device to display fishing license information does not prevent a court "of competent jurisdiction" from requiring a person to provide a paper copy of the license. The revised law omits the quoted language for the reason stated in Revisor's Note (3) to Section 5151.0607.

Revised Law

Sec. 5153.0607. EXHIBITING LICENSE. A person required to hold a license issued under this chapter shall show the license to an officer on the officer's request. (Parks & Wild. Code, Sec. 46.015(a) (part).)

Source Law

> Sec. 46.015. PENALTY. (a) A person [who violates a provision of this subchapter or], except as provided by Subsection (b) of this section, who fails or refuses to show an officer his license or . . . on the request of the officer [commits an offense that is a Class C Parks and Wildlife Code misdemeanor].

Revisor's Note

Section 46.015(a), Parks and Wildlife Code, provides that, except as provided by Section 46.015(b) of that code, a person who fails or refuses to show an officer the person's license on the officer's request commits an offense. For clarity, the revised law restates the provision as an affirmative duty to show the license rather than a prohibition on failing or refusing to show the license. The revised law revises the provision making violation of the requirement to show the license on request an offense as Section 5153.9901 and revises the exception to the offense as Section 5153.9902.

SUBCHAPTER Z. ENFORCEMENT

Revised Law

Sec. 5153.9901. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 46.015(a) (part).)

Source Law

> Sec. 46.015. PENALTY. (a) A person who violates a provision of this subchapter or . . . commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revised Law

Sec. 5153.9902. MANDATORY DISMISSAL OF CERTAIN OFFENSES INVOLVING FAILURE TO SHOW LICENSE OR TAG. A court shall dismiss a charge against a person for a violation of Section 5153.0503 or 5153.0607 if, on or before the trial of the offense, the person produces for the court or the prosecuting attorney the proper fishing license or tag, as applicable, issued to the person and valid at the time of the offense. (Parks & Wild. Code, Sec. 46.015(b).)

Source Law

> (b) If on or before the trial of any person charged with the failure or refusal to show an officer a license or tag issued under this subchapter, the person produces for the court or the prosecuting attorney the proper fishing license or tag issued to the person and valid at the time of the offense, the court having jurisdiction of the suit shall dismiss the charge.

Revisor's Note

Section 46.015(b), Parks and Wildlife Code, provides that if a person charged with the failure or refusal to show an officer a license or tag issued under Subchapter B, Chapter 46, of that code produces a valid fishing license or tag, the court "having jurisdiction of the suit" shall dismiss the charge. The revised law omits the quoted language for the reason stated in the revisor's note to Section 5151.9902.

CHAPTER 5154. GENERAL FISHING STAMPS

SUBCHAPTER A. SALTWATER SPORTFISHING STAMP

Revised Law

Sec. 5154.0101. DEFINITION. In this subchapter, "salt water" means all coastal or tidal water. (Parks & Wild. Code, Secs. 43.401, 66.001(3).)

Source Law

Sec. 43.401. DEFINITION. In this subchapter, "saltwater" has the meaning prescribed by Section 66.001 of this code.

Sec. 66.001. DEFINITIONS. In this chapter:

(3) "Salt water" means all coastal or tidal water.

Revisor's Note

Section 43.401, Parks and Wildlife Code, provides that for purposes of Subchapter M, Chapter 43, of that code, "saltwater" has the meaning prescribed by Section 66.001 of that code. Section 66.001(3), Parks and Wildlife Code, defines the term "salt water" as all coastal or tidal water. Throughout this subchapter, the revised law refers to "salt water" where the term is used as a noun and "saltwater" where the term is used as an adjective to provide consistency in terminology in the revised code.

Revised Law

Sec. 5154.0102. SALTWATER SPORTFISHING STAMP REQUIRED. (a) Except as provided by Section 5154.0103, unless a person holds a saltwater sportfishing stamp issued to the person by the department, the person may not:

(1) engage in fishing in salt water for sporting purposes in this state; or

(2) unload in this state fish or other aquatic life taken for sporting purposes from waters managed by the Gulf of Mexico Fishery Management Council established under the Magnuson-Stevens Fishery Conservation and Management Act (16

U.S.C. Section 1801 et seq.).

(b) The commission by rule may prescribe requirements relating to possessing a saltwater sportfishing stamp. (Parks & Wild. Code, Sec. 43.402(a).)

Source Law

> Sec. 43.402. SALTWATER SPORTFISHING STAMP REQUIRED. (a) Except as provided by Subsection (b) or (c) of this section, no person may engage in fishing in saltwater for sporting purposes in this state, or unload in this state fish or other aquatic life taken for sporting purposes from waters managed by the Gulf of Mexico Fishery Management Council established under the Fishery Conservation and Management Act of 1976 (16 U.S.C. Section 1801 et seq.), unless the person has acquired a saltwater sportfishing stamp endorsement issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp endorsement required by this subchapter.

Revisor's Note

(1) Section 43.402(a), Parks and Wildlife Code, refers to the "Fishery Conservation and Management Act of 1976" (16 U.S.C. Section 1801 et seq.). The revised law substitutes "Magnuson-Stevens Fishery Conservation and Management Act" for the quoted language because that is the proper short title of that act.

(2) Section 43.402(a), Parks and Wildlife Code, refers to a saltwater sportfishing "stamp endorsement." Throughout this subchapter, the revised law substitutes "stamp" for "stamp endorsement" for consistency in terminology used in this subchapter.

Revised Law

Sec. 5154.0103. EXEMPTIONS. (a) A person who is exempt from the requirement to hold a fishing license under Chapter 5153 is exempt from the requirement to hold a saltwater sportfishing stamp under Section 5154.0102.

(b) The commission by regulation may exempt a person from the requirement to hold a saltwater sportfishing stamp under Section 5154.0102. (Parks & Wild. Code, Secs. 43.402(b), (c).)

Source Law

(b) A person who is exempted from obtaining a fishing license under Chapter 46 is not required to obtain a saltwater sportfishing stamp endorsement.

(c) The commission by regulation may exempt a person from the stamp requirement of this section.

Revisor's Note

(1) Section 43.402(b), Parks and Wildlife Code, refers to a "fishing license under Chapter 46" of that code. Throughout this subtitle, in this and similar contexts, the revised law substitutes "Chapter 5153" for "Chapter 46" because the pertinent parts of Chapter 46 are revised as Chapter 5153.

(2) Section 43.402(c), Parks and Wildlife Code, provides that the Parks and Wildlife Commission may exempt a person from the stamp requirement of Section 43.402 of that code. Section 43.402 is revised in pertinent part in Section 5154.0102, and the revised law is drafted accordingly.

Revised Law

Sec. 5154.0104. STAMP FEE. The fee for a saltwater sportfishing stamp is $5 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 43.403(a) (part).)

Source Law

Sec. 43.403. DESIGN AND ISSUANCE OF STAMP. (a) [The department may issue] a saltwater sportfishing stamp [to any person on the payment to the department of] $5 or an amount set by the commission, whichever amount is more. . . .

Revised Law

Sec. 5154.0105. FORM AND MANNER OF ISSUANCE OF STAMP. (a) The department may issue a saltwater sportfishing stamp to a person on payment to the department of the fee required by Section 5154.0104.

(b) Except as provided by Subsection (e), to be valid for fishing purposes, the stamp must be signed on its face by the person using the stamp.

(c) The commission by regulation shall prescribe the form,

design, and manner of issuance of the stamp. The department shall retain the reproduction rights to the design.

(d) The commission may contract with and pay a person for designing and producing the stamp.

(e) The commission by rule may prescribe alternative requirements for identifying the purchaser of a stamp issued in an automated manner. (Parks & Wild. Code, Secs. 43.403(a) (part), (b), (c), (d).)

Source Law

> Sec. 43.403. DESIGN AND ISSUANCE OF STAMP. (a) The department may issue a saltwater sportfishing stamp to any person on the payment to the department of [$5 or an amount set by the commission, whichever amount is more.] . . . Except as provided by Subsection (d), the stamp must be signed on its face by the person using the stamp for the stamp to be valid for fishing purposes.
>
> (b) The commission shall prescribe by regulation the form, design, and manner of issuance of the saltwater sportfishing stamp. The department shall retain the reproduction rights to the design.
>
> (c) The commission may contract with and pay a person for designing and producing the saltwater sportfishing stamp authorized by this subchapter.
>
> (d) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

Revisor's Note

Section 43.403(a), Parks and Wildlife Code, authorizes the Parks and Wildlife Department to issue a saltwater sportfishing stamp on payment of "$5 or an amount set by the commission." The provision establishing the amount of the fee for the stamp is revised as Section 5154.0104, while the provision authorizing the issuance of the stamp on payment of the fee is revised in this section. The revised law is drafted accordingly.

Revised Law

Sec. 5154.0106. OTHER EDITIONS OF STAMP. The department may issue other editions of the saltwater sportfishing stamp that do not authorize fishing for a fee in an amount set by the commission. (Parks & Wild. Code, Sec. 43.403(a) (part).)

Source Law

(a) . . . The department may issue other editions of the stamp that are not valid for fishing at an amount set by the commission. . . .

Revisor's Note

Section 43.403(a), Parks and Wildlife Code, provides that the Parks and Wildlife Department may issue editions of the stamp that "are not valid for" fishing. The revised law substitutes "do not authorize" for the quoted language for the reasons stated in the revisor's note to Section 5152.0105.

Revised Law

Sec. 5154.0107. STAMP TERM. (a) For purposes of this section, a yearly period for a saltwater sportfishing stamp:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission.

(b) Except as provided by Subsection (c) or (d), a saltwater sportfishing stamp is valid only during the yearly period for which the stamp is issued without regard to the date the stamp is acquired.

(c) A saltwater sportfishing stamp issued before the first day of the applicable yearly period that does not expire until the last day of the applicable yearly period is valid from the date of issuance through the last day of the applicable yearly period.

(d) A saltwater sportfishing stamp issued in conjunction with a temporary sportfishing license issued under Section 5153.0203 or a temporary nonresident sportfishing license issued under Section 5153.0204 expires on the later of the date the license expires or the expiration date printed on the stamp. (Parks & Wild. Code, Secs. 43.4035(a) (part), (b), (c).)

Source Law

Sec. 43.4035. EXPIRATION OF STAMP. (a) Except as provided by Subsection (b) or (c), a stamp issued under this subchapter is valid for fishing only during

> the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. 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. . . .
>
> (b) A saltwater sportfishing stamp issued before September 1 or another date set by the commission that does not expire until August 31 of the following year or another date set by the commission is valid from the date of issuance through August 31 of the following year or another date set by the commission.
>
> (c) A saltwater sportfishing stamp issued in conjunction with a license issued under Section 46.005 or 46.0051 of this code expires at the same time the license expires or on the expiration date printed on the stamp, whichever is later.

Revisor's Note

Section 43.4035(c), Parks and Wildlife Code, refers to a license "issued under Section 46.005 or 46.0051" of that code. Sections 46.005 and 46.0051 are revised in pertinent part as Sections 5153.0203 and 5153.0204, respectively, and the revised law is drafted accordingly.

Revised Law

Sec. 5154.0108. STAMP ISSUED FOR TRANSITION PERIOD. The commission by rule may:

(1) provide for a saltwater sportfishing stamp term for a transition period that is less than or exceeds one year; and

(2) set the fee for a saltwater sportfishing stamp issued during a transition period at an amount less than the amount prescribed by this subchapter. (Parks & Wild. Code, Sec. 43.4035(a) (part).)

Source Law

> (a) . . . The commission by rule may set the amount of a stamp fee for a stamp issued during a transition period at an amount lower than prescribed in this subchapter and provide for a stamp term for a transition period that is shorter or longer than a year.

Revised Law

Sec. 5154.0109. FISHING LICENSE REQUIREMENT AND FISHING RESTRICTIONS NOT AFFECTED. A saltwater sportfishing stamp does not authorize a person to fish for sporting purposes in salt water:

(1) without a fishing license required by Chapter 5153; or

(2) at any time or by any means not otherwise authorized by this code. (Parks & Wild. Code, Sec. 43.404.)

Source Law

Sec. 43.404. FISHING LICENSE REQUIRED. The acquisition of a saltwater sportfishing stamp does not authorize a person to fish for sporting purposes in saltwater without having acquired a fishing license required by Chapter 46 of this code or authorize saltwater sportfishing at any time or by any means not otherwise authorized by this code.

Revisor's Note

Section 43.404, Parks and Wildlife Code, provides that "[t]he acquisition of" a saltwater sportfishing stamp does not authorize a person to engage in certain fishing activities without a fishing license. The revised law omits the quoted language as unnecessary because it does not add to the clear meaning of the law.

Revised Law

Sec. 5154.0110. DISPOSITION AND USE OF NET REVENUE FROM SALE OF STAMPS. (a) After deducting the collection fee, the net revenue derived from the sale of saltwater sportfishing stamps shall be sent to the department.

(b) The net revenue described by Subsection (a) may be used only for coastal fisheries management, including:

(1) repair, maintenance, renovation, and construction of:

(A) saltwater fish hatcheries in this state; and

(B) facilities supporting the management of and research related to saltwater fisheries;

(2) restoration, enhancement, and management of saltwater fish habitats;

(3) development of shoreline-based projects allowing saltwater angler access; and

(4) purchase of licenses under a license buyback

program authorized by Section 5158.0417, 5251.1211, 5253.0303, or 5304.0707. (Parks & Wild. Code, Sec. 43.405.)

Source Law

Sec. 43.405. DISPOSITION AND USE OF STAMP FEES. (a) After deduction of the collection fee, the net receipts from stamp sales shall be sent to the department.

(b) The stamp sale net receipts may be spent only for coastal fisheries management, including:

(1) repair, maintenance, renovation, and construction of:

(A) saltwater fish hatcheries in this state; and

(B) facilities supporting the management of and research related to saltwater fisheries;

(2) restoration, enhancement, and management of saltwater fish habitats;

(3) development of shoreline-based projects allowing saltwater angler access; and

(4) purchase of licenses under a license buyback program authorized by Section 47.081, 76.405, 77.119, or 78.111.

Revisor's Note

Section 43.405, Parks and Wildlife Code, provides for the disposition of net "receipts" from the sale of saltwater sportfishing stamps. Throughout this chapter, in this and similar contexts, the revised law substitutes "revenue" for "receipts" for consistency in terminology because, in context, the terms are synonymous and "revenue" is more commonly used.

Revised Law

Sec. 5154.0111. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 5154.0102.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor.

(c) A person fishing in salt water for sporting purposes who refuses on demand of a peace officer to show a saltwater sportfishing stamp is presumed to be in violation of Section 5154.0102. (Parks & Wild. Code, Secs. 43.406, 43.407.)

Source Law

Sec. 43.406. REFUSAL TO SHOW STAMP. A person fishing in saltwater for sporting purposes who refuses on demand of any game warden or peace officer to show a saltwater sportfishing stamp is presumed to be in

violation of Section 43.402.

Sec. 43.407. PENALTY. A person who violates Section 43.402 of this code is guilty of a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

(1) Sections 43.406 and 43.407, Parks and Wildlife Code, refer to a violation of Section 43.402 of that code. Section 43.402 is revised in pertinent part as Section 5154.0102, and the revised law is drafted accordingly.

(2) Section 43.406, Parks and Wildlife Code, refers to a "game warden or peace officer." Throughout this chapter, the revised law omits "game warden" from provisions that include a reference to both "peace officer" and "game warden" for the reason stated in the revisor's note to Section 5103.0407.

SUBCHAPTER B. FRESHWATER FISHING STAMP

Revised Law

Sec. 5154.0201. DEFINITION. In this subchapter, "fresh water" means all lakes, lagoons, rivers, and streams to their mouths. The term does not include coastal or tidal water. (Parks & Wild. Code, Secs. 43.801, 66.001(1).)

Source Law

Sec. 43.801. DEFINITION. In this subchapter, "fresh water" has the meaning provided by Section 66.001.

Sec. 66.001. DEFINITIONS. In this chapter:

(1) "Fresh water" means all lakes, lagoons, rivers, and streams to their mouths, but does not include coastal or tidal water.

Revised Law

Sec. 5154.0202. FRESHWATER FISHING STAMP REQUIRED. (a) Except as provided by Section 5154.0203, a person may not engage in fishing in fresh water for sporting purposes in this state unless the person holds a freshwater fishing stamp issued to the person by the department.

(b) The commission by rule may adopt requirements relating to possessing a freshwater fishing stamp. (Parks & Wild. Code, Sec.

43.802(a).)

Source Law

Sec. 43.802. FRESHWATER FISHING STAMP REQUIRED. (a) Except as provided by Subsection (b) or (c), no person may engage in fishing in fresh water for sporting purposes in this state unless the person has acquired a freshwater fishing stamp issued to the person by the department. The commission by rule may adopt requirements relating to possessing a freshwater fishing stamp required by this subchapter.

Revised Law

Sec. 5154.0203. EXEMPTIONS. (a) A person who is exempt from the requirement to hold a fishing license under Chapter 5153 is exempt from the requirement to hold a freshwater fishing stamp under Section 5154.0202.

(b) The commission by rule may exempt a person from the requirement to hold a freshwater fishing stamp under Section 5154.0202. (Parks & Wild. Code, Secs. 43.802(b), (c).)

Source Law

(b) A person who is exempted from obtaining a fishing license under Chapter 46 is not required to obtain a freshwater fishing stamp.

(c) The commission by rule may exempt a person from the freshwater fishing stamp requirement of this section.

Revisor's Note

Section 43.802(c), Parks and Wildlife Code, provides that the Parks and Wildlife Commission may exempt a person from the stamp requirement of Section 43.802 of that code. Section 43.802 is revised in pertinent part as Section 5154.0202, and the revised law is drafted accordingly.

Revised Law

Sec. 5154.0204. STAMP FEE. The fee for a freshwater fishing stamp is $5. (Parks & Wild. Code, Sec. 43.804(a) (part).)

Source Law

Sec. 43.804. DESIGN AND ISSUANCE OF STAMPS. (a) [The department may issue] a freshwater fishing stamp [to any person on the payment to the department of] $5. . . .

Revised Law

Sec. 5154.0205. FORM AND MANNER OF ISSUANCE OF STAMPS. (a) The department may issue a freshwater fishing stamp to a person on the payment to the department of the fee required by Section 5154.0204.

(b) Except as provided by Subsection (f), to be valid for fishing purposes, the stamp must be signed on its face by the person using the stamp.

(c) The department may issue a collectible stamp that does not authorize fishing on the payment to the department of $5.

(d) The commission by rule shall prescribe the form, design, and manner of issuance of the stamp and the collectible stamp. The department retains all reproduction rights to the design of the stamp and the collectible stamp.

(e) The commission may contract with and pay a person for designing and producing the stamp or the collectible stamp.

(f) The commission by rule may prescribe alternative requirements for identifying the purchaser of a stamp issued in an automated manner. (Parks & Wild. Code, Secs. 43.804(a) (part), (b), (c), (d), (e).)

Source Law

Sec. 43.804. DESIGN AND ISSUANCE OF STAMPS. (a) The department may issue a freshwater fishing stamp to any person on the payment to the department of [$5.] Except as provided by Subsection (e), a stamp must be signed on its face by the person using it for the stamp to be valid for fishing purposes.

(b) The department may issue a collectible freshwater fishing stamp to any person on the payment to the department of $5. A collectible freshwater fishing stamp does not authorize a person to fish and is not valid for fishing purposes.

(c) The commission by rule shall prescribe the form, design, and manner of issuance of the freshwater fishing stamp and the collectible freshwater fishing stamp. The department retains all reproduction rights to the design of the freshwater fishing stamp and the collectible freshwater fishing stamp.

(d) The commission may contract with and pay a person for designing and producing the freshwater fishing stamp or the collectible freshwater fishing stamp.

(e) The commission by rule may prescribe alternate requirements for identifying the purchaser of a freshwater fishing stamp issued in an automated manner.

Revisor's Note

Section 43.804(a), Parks and Wildlife Code, authorizes the Parks and Wildlife Department to issue a freshwater fishing stamp on payment of $5. The provision establishing the amount of the fee for the stamp is revised as Section 5154.0204, while the provision authorizing the issuance of the stamp on payment of the fee is revised in this section. The revised law is drafted accordingly.

Revised Law

Sec. 5154.0206. STAMP TERM. (a) For purposes of this section, a yearly period for a freshwater fishing stamp:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission.

(b) Except as provided by Subsection (c) or (d), a freshwater fishing stamp is valid only during the yearly period for which the stamp is issued without regard to the date the stamp is acquired.

(c) A freshwater fishing stamp issued before the first day of the applicable yearly period that does not expire until the last day of the applicable yearly period is valid from the date of issuance through the last day of the applicable yearly period.

(d) A freshwater fishing stamp issued in conjunction with a temporary sportfishing license issued under Section 5153.0203 or a temporary nonresident sportfishing license issued under Section 5153.0204 expires on the later of the date the license expires or the date printed on the stamp. (Parks & Wild. Code, Secs. 43.806(a) (part), (b), (c).)

Source Law

Sec. 43.806. EXPIRATION OF STAMP. (a) Except as provided by Subsection (b) or (c), a freshwater fishing stamp is valid for fishing only during the yearly period for which the stamp is issued, without regard to the date on which the stamp is acquired.

Each yearly period begins on September 1 of the year in which the stamp is issued or another date set by the commission and extends through August 31 of the next year or another date set by the commission. . . .

(b) A freshwater fishing stamp issued before September 1 or another date set by the commission that does not expire until August 31 of the next year or another date set by the commission is valid from the date of issuance through August 31 of the next year or another date set by the commission.

(c) A freshwater fishing stamp issued in conjunction with a license issued under Section 46.005 or 46.0051 expires on the later of the license expiration date or the date printed on the stamp.

Revisor's Note

Section 43.806(c), Parks and Wildlife Code, refers to a license issued under Section 46.005 or 46.0051 of that code. Sections 46.005 and 46.0051 are revised in pertinent part as Sections 5153.0203 and 5153.0204, respectively, and the revised law is drafted accordingly.

Revised Law

Sec. 5154.0207. STAMP ISSUED FOR TRANSITION PERIOD. The commission by rule may:

(1) provide for a freshwater fishing stamp term for a transition period that is less than or exceeds one year; and

(2) set the fee for a freshwater fishing stamp issued during a transition period at an amount less than the amount prescribed by this subchapter. (Parks & Wild. Code, Sec. 43.806(a) (part).)

Source Law

(a) . . . The commission by rule may set the amount of a stamp fee for a stamp issued during a transition period at an amount lower than prescribed in this subchapter and provide for a stamp term for a transition period that is shorter or longer than one year.

Revised Law

Sec. 5154.0208. FISHING LICENSE REQUIREMENT AND FISHING RESTRICTIONS NOT AFFECTED. A freshwater fishing stamp does not authorize a person to fish:

(1) for sporting purposes in fresh water without a fishing license as provided by Chapter 5153; or

(2) at any time or by any means not otherwise authorized by this code. (Parks & Wild. Code, Sec. 43.803.)

Source Law

> Sec. 43.803. FISHING LICENSE REQUIRED. The acquisition of a freshwater fishing stamp does not authorize a person to fish in fresh water for sporting purposes without having acquired a fishing license as provided by Chapter 46. The acquisition of a freshwater fishing stamp does not authorize a person to fish at any time or by any means not otherwise authorized by this code.

Revisor's Note

Section 43.803, Parks and Wildlife Code, provides that "[t]he acquisition of" a freshwater fishing stamp does not authorize a person to engage in certain fishing activities without a fishing license. The revised law omits the quoted language as unnecessary because it does not add to the clear meaning of the law.

Revised Law

Sec. 5154.0209. DISPOSITION AND USE OF NET REVENUE FROM SALE OF STAMPS. (a) After deducting any collection fee, the net revenue derived from the sale of freshwater fishing stamps and collectible freshwater fishing stamps shall be sent to the department.

(b) The net revenue described by Subsection (a) may be used only for the:

(1) repair, maintenance, renovation, or construction of:

(A) freshwater fish hatcheries in this state; and

(B) facilities supporting the management of and research related to freshwater fisheries;

(2) purchase of game fish that are stocked into the public water of this state;

(3) restoration, enhancement, or management of freshwater fish habitats;

(4) development of shoreline-based projects allowing

freshwater angler access; and

(5) administration and operation of freshwater fish hatcheries in an amount not to exceed 20 percent of the average annual net revenue in a state fiscal biennium. (Parks & Wild. Code, Sec. 43.805.)

Source Law

Sec. 43.805. DISPOSITION OF STAMP FEES. (a) After deduction of any collection fee, the net receipts from freshwater fishing stamp and collectable freshwater fishing stamp sales shall be sent to the department.

(b) The net receipts from freshwater fishing stamp and collectable freshwater fishing stamp sales may be spent only for the:

(1) repair, maintenance, renovation, or construction of:

(A) freshwater fish hatcheries in this state; and

(B) facilities supporting the management of and research related to freshwater fisheries;

(2) purchase of game fish that are stocked into the public water of this state;

(3) restoration, enhancement, or management of freshwater fish habitats;

(4) development of shoreline-based projects allowing freshwater angler access; and

(5) administration and operation of freshwater fish hatcheries in an amount not to exceed 20 percent of the average annual net receipts in a state fiscal biennium.

Revised Law

Sec. 5154.0210. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 5154.0202.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor.

(c) A person fishing in fresh water for sporting purposes who refuses on demand of a peace officer to show a freshwater fishing stamp or proof that the person is exempt under Section 5154.0203 is presumed to be in violation of Section 5154.0202. (Parks & Wild. Code, Secs. 43.807, 43.808.)

Source Law

Sec. 43.807. REFUSAL TO SHOW STAMP. A person fishing in fresh water for sporting purposes who refuses on demand of any game warden or peace officer to show a freshwater fishing stamp or proof that the person is exempt under Section 43.802(b) or a rule adopted under that section is presumed to be in violation of Section 43.802.

Sec. 43.808. PENALTY. A person who violates Section 43.802 is guilty of a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

(1) Sections 43.807 and 43.808, Parks and Wildlife Code, refer to a violation of Section 43.802 of that code. Section 43.802 is revised in pertinent part as Section 5154.0202, and the revised law is drafted accordingly.

(2) Section 43.807, Parks and Wildlife Code, refers to proof that a person is "exempt under Section 43.802(b) or a rule adopted under that section," meaning Section 43.802 of that code. Section 43.802(b) provides that certain persons are exempt from the requirement to hold a freshwater fishing stamp, and Section 43.802(c) authorizes the Parks and Wildlife Commission to exempt persons from that requirement by rule. Those provisions are revised as Section 5154.0203. For clarity and the convenience of the reader, the revised law substitutes "exempt under Section 5154.0203" for the quoted language because a person who is exempt from the requirement to hold a freshwater fishing stamp is necessarily exempt under Section 5154.0203, regardless of whether the exemption is provided by statute or commission rule.

CHAPTER 5155. COMBINATION LICENSES

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5155.0101. DETERMINATION OF RESIDENCY STATUS. For purposes of this chapter, a person is considered a resident if the person is:

(1) an individual who has resided continuously in this state for more than six months immediately before applying for a license issued under this chapter;

(2) a member of the United States armed forces on

active duty;

(3) a dependent of a member of the United States armed forces on active duty; or

(4) a member of another category of individuals that the commission by regulation designates as residents. (Parks & Wild. Code, Sec. 50.0011.)

Source Law

Sec. 50.0011. DEFINITION. In this chapter, "resident" means:

(1) an individual who has resided continuously in this state for more than six months immediately before applying for a license issued under this chapter;

(2) a member of the United States armed forces on active duty;

(3) a dependent of a member of the United States armed forces on active duty; or

(4) a member of any other category of individuals that the commission by regulation designates as residents.

SUBCHAPTER B. COMBINATION LICENSE

Revised Law

Sec. 5155.0201. COMBINATION LICENSE AUTHORIZED. (a) The department may issue to a resident of this state:

(1) a combination hunting and fishing license; or

(2) a lifetime combination hunting and fishing license.

(b) The commission shall establish combination licenses or license packages for hunting, fishing, and other activities. (Parks & Wild. Code, Secs. 50.001(a), (b), (c) (part).)

Source Law

Sec. 50.001. COMBINATION LICENSES AUTHORIZED. (a) The department may issue to residents of this state a combination hunting and fishing license.

(b) The department may issue to a resident of this state a lifetime combination hunting and fishing license.

(c) The commission shall establish combination licenses or license packages for hunting, fishing, and other activities. . . .

Revised Law

Sec. 5155.0202. LICENSE FEES. (a) The fee for a combination hunting and fishing license issued under Section 5155.0201(a)(1) is $12 or a greater amount set by the commission.

(b) The fee for a lifetime combination hunting and fishing license issued under Section 5155.0201(a)(2) is $500 or a greater amount set by the commission.

(c) The commission may set fees for combination licenses or license packages established under Section 5155.0201(b). The fees must be less than the sum of the fees for the individual licenses, permits, or stamps that are combined in the combination licenses or license packages. (Parks & Wild. Code, Secs. 50.001(c) (part), 50.002.)

Source Law

[Sec. 50.001]

(c) . . . The commission may set fees for those combination licenses or license packages. The fees set for combination licenses or license packages shall be less than the fees for the individual licenses, permits, or stamps that are combined in the combination licenses or license packages.

Sec. 50.002. LICENSE FEES. (a) The fee for the combination license is $12 or an amount set by the commission, whichever amount is more.

(b) The fee for the lifetime license is $500 or an amount set by the commission, whichever amount is more.

Revisor's Note

(1) Section 50.002(a), Parks and Wildlife Code, refers to a "combination license." For clarity and consistency in terminology used in this chapter, the revised law substitutes "combination hunting and fishing license issued under Section 5155.0201(a)(1)" for "combination license" because it is clear from the context that the referenced license is the combination hunting and fishing license issued under that provision.

(2) Section 50.002(b), Parks and Wildlife Code, refers to a "lifetime license." For clarity and consistency in terminology used in this chapter, the revised law substitutes "lifetime combination hunting and fishing license issued under Section 5155.0201(a)(2)" for "lifetime license" because it is

clear from the context that the referenced license is the lifetime combination hunting and fishing license issued under that provision.

Revised Law

Sec. 5155.0203. FORM AND ISSUANCE OF LICENSE. (a) The department shall prescribe the form and manner of issuance of and issue the license.

(b) The commission by rule may prescribe identification and compliance requirements. (Parks & Wild. Code, Sec. 50.004(a).)

Source Law

Sec. 50.004. FORM; DUPLICATE LICENSE. (a) The department shall issue and prescribe the form and manner of issuance of the license. The commission by rule may prescribe identification and compliance requirements.

Revised Law

Sec. 5155.0204. DUPLICATE LICENSE. A duplicate license may be issued for the same fee and in the same manner as a hunting license under Chapter 5151. (Parks & Wild. Code, Sec. 50.004(b).)

Source Law

(b) Duplicate licenses may be issued for the same fee and in the same manner as hunting licenses under Chapter 42 of this code.

Revisor's Note

Section 50.004(b), Parks and Wildlife Code, provides that duplicate licenses may be issued in the same manner as hunting licenses under Chapter 42 of that code. Throughout this subtitle, in this and similar contexts, the revised law substitutes "Chapter 5151" for "Chapter 42" because the pertinent parts of Chapter 42 are revised as Chapter 5151.

Revised Law

Sec. 5155.0205. LICENSE TERMS. (a) For purposes of this section, a yearly period for a license:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or

another date set by the commission.

(b) Except as provided by Subsections (c) and (d), a license required or authorized by this chapter is valid only during the yearly period for which the license is issued without regard to the date the license is acquired.

(c) A license issued under this chapter that is issued before the first day of the applicable yearly period and that does not expire until the last day of the applicable yearly period is valid from the date of issuance through the last day of the applicable yearly period.

(d) A lifetime resident combination hunting and fishing license is valid for the lifetime of the license holder. (Parks & Wild. Code, Secs. 50.0021(a) (part), (b), (c).)

Source Law

> Sec. 50.0021. EXPIRATION OF LICENSES. (a) Except as provided by Subsections (b) and (c) of this section, a license required or authorized by this chapter is valid only during the yearly period for which the license is issued without regard to the date on which the license is acquired. 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. . . .
>
> (b) A license issued under the authority of this chapter that is issued before September 1 or another date set by the commission and does not expire until August 31 or another date set by the commission of the following year is valid from the date of issuance through August 31 of the following year or another date set by the commission.
>
> (c) A lifetime resident combination hunting and fishing license is valid for the lifetime of the license holder.

Revised Law

Sec. 5155.0206. LICENSE ISSUED FOR TRANSITION PERIOD. The commission by rule may:

(1) provide for a license term for a transition period that is less than or exceeds one year; and

(2) set the fee for a license issued during a transition period at an amount less than the amount prescribed by this chapter for that license. (Parks & Wild. Code, Sec. 50.0021(a) (part).)

Source Law

(a) . . . The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

Revised Law

Sec. 5155.0207. ELECTRONIC DISPLAY OF LICENSE. (a) Rules adopted under Section 5155.0203(b) must allow for a person to present, for the purpose of verifying that the person holds a combination hunting and fishing license, an image displayed on a wireless communication device. The image displayed may be:

(1) an image of information from the department's Internet website; or

(2) a photograph of a combination license.

(b) The display of an image that includes combination license information on a wireless communication device under this section does not constitute effective consent for a peace officer or any other person to access the contents of the wireless communication device except to view the combination license information.

(c) The authorization of the use of a wireless communication device to display combination license information under Subsection (a) does not prevent a court from requiring a person to provide a paper copy of the person's combination license in a hearing or trial or in connection with discovery proceedings.

(d) A telecommunications provider, as defined by Section 51.002, Utilities Code, may not be held liable to the holder of a combination license for the failure of a wireless communication device to display combination license information under Subsection (a). (Parks & Wild. Code, Secs. 50.004(c), (d), (e), (f).)

Source Law

(c) Rules adopted under Subsection (a) must allow for a person to present for the purpose of verification of possession a combination hunting and fishing license as an image displayed on a wireless communication device. The image displayed may be either an image of information from the Internet

website of the department or a photograph of a combination hunting and fishing license.

(d) The display of an image that includes combination hunting and fishing license information on a wireless communication device under this section does not constitute effective consent for a law enforcement officer, or any other person, to access the contents of the wireless communication device except to view the combination hunting and fishing license information.

(e) The authorization of the use of a wireless communication device to display combination hunting and fishing license information under Subsection (c) does not prevent a court of competent jurisdiction from requiring a person to provide a paper copy of the person's combination hunting and fishing license in a hearing or trial or in connection with discovery proceedings.

(f) A telecommunications provider, as defined by Section 51.002, Utilities Code, may not be held liable to the holder of a combination hunting and fishing license for the failure of a wireless communication device to display combination hunting and fishing license information under Subsection (c).

Revisor's Note

(1) Section 50.004(c), Parks and Wildlife Code, refers to rules adopted under Section 50.004(a) of that code. Section 50.004(a) is revised in pertinent part as Section 5155.0203(b), and the revised law is drafted accordingly.

(2) Section 50.004(d), Parks and Wildlife Code, refers to the display of an image on a wireless communication device under Section 50.004 of that code. The pertinent parts of Section 50.004 relating to the display of an image on a wireless communication device are revised as this section, and the revised law is drafted accordingly.

(3) Section 50.004(d), Parks and Wildlife Code, refers to a "law enforcement officer." The revised law substitutes "peace officer" for "law enforcement officer" for the reason stated in the revisor's note to Section 5104.0206.

(4) Section 50.004(e), Parks and Wildlife Code, provides that the use of a wireless communication device to display combination hunting and fishing license information does not prevent a court "of

competent jurisdiction" from requiring a person to provide a paper copy of the license. The revised law omits the quoted language for the reason stated in Revisor's Note (3) to Section 5151.0607.

Revised Law

Sec. 5155.0208. OTHER LICENSES NOT REQUIRED. A resident who holds a combination hunting and fishing license is not required to hold a hunting license under Chapter 5151 or a fishing license under Chapter 5153. (Parks & Wild. Code, Sec. 50.003.)

Source Law

> Sec. 50.003. OTHER LICENSES NOT REQUIRED. A resident who has acquired a combination hunting and fishing license is not required to obtain the hunting license required by Chapter 42 of this code or the fishing license required by Chapter 46 of this code.

Revised Law

Sec. 5155.0209. COMPLIANCE WITH OTHER LAW REQUIRED. A combination hunting and fishing license holder shall comply with and is subject to the penalties in Chapters 5151 and 5153, unless those requirements or penalties conflict with this chapter. (Parks & Wild. Code, Sec. 50.005.)

Source Law

> Sec. 50.005. HOLDER SHALL COMPLY WITH OTHER LAW. A holder of a combination hunting and fishing license shall comply with and is subject to the penalties in Chapters 42 and 46 of this code, unless those requirements or penalties conflict with this chapter.

Revised Law

Sec. 5155.0210. ALLOCATION OF REVENUE DERIVED FROM COMBINATION LICENSES. Notwithstanding Sections 5152.0109, 5154.0110, and 5154.0209, the commission shall allocate to individual stamp funds the net revenue derived from the sale of stamps that are included in a combination license package according to a methodology the commission establishes. The methodology must incorporate:

(1) the proportionate discounted price of each stamp;

(2) the estimated use of each stamp; or

(3) a combination of the methods described by Subdivisions (1) and (2). (Parks & Wild. Code, Sec. 50.001(d).)

Source Law

(d) Notwithstanding Sections 43.204, 43.405, and 43.805, the commission shall allocate net revenue to individual stamp funds from the sale of stamps that are included in a combination license package according to a methodology the commission establishes. The methodology must incorporate:

(1) the proportionate discounted price of each stamp;

(2) the estimated utilization of each stamp; or

(3) a combination of the methods described by Subdivisions (1) and (2).

CHAPTER 5156. RECIPROCAL HUNTING AND FISHING LICENSES

SUBCHAPTER A. RECIPROCAL LICENSE AGREEMENTS WITH OTHER STATES

Revised Law

Sec. 5156.0101. RECIPROCAL LICENSE AGREEMENTS WITH OTHER STATES. The department may agree with another state to license sport hunting and fishing by residents of the other state for the same fee as residents of this state are licensed if the other state licenses residents of this state for the same fee as residents of the other state are licensed. (Parks & Wild. Code, Sec. 41.008.)

Source Law

Sec. 41.008. RECIPROCAL LICENSE AGREEMENTS: ANY OTHER STATE. The department may agree with any other state to license sport hunting and fishing by residents of the other state at the same fee as Texas residents are licensed if the other state licenses Texas residents at the same fee as residents of the other state are licensed.

SUBCHAPTER B. RECIPROCAL LICENSE AGREEMENTS WITH BORDERING STATES

Revised Law

Sec. 5156.0201. RECIPROCAL LICENSE AGREEMENTS WITH BORDERING STATES. (a) The executive director shall negotiate on behalf of the commission with the proper representatives of each state having a common border with this state an agreement to allow reciprocal fishing and migratory waterfowl hunting on rivers and lakes on the common border between this state and the bordering state.

(b) An agreement must provide that:

(1) a resident of the bordering state who holds a sportfishing license or hunting license issued by the bordering state may fish or hunt migratory waterfowl on rivers and lakes of the common border; and

(2) a resident of this state who holds a license issued by this state is extended equal privileges to those extended to a resident of the bordering state under Subdivision (1).

(c) A person who holds a nonresident sportfishing license or nonresident general hunting license issued by this state or a bordering state may be extended the same privileges as those extended to a resident license holder under Subsection (b). (Parks & Wild. Code, Sec. 41.003.)

Source Law

> Sec. 41.003. RECIPROCAL LICENSE AGREEMENTS: BORDER STATES. (a) The director shall negotiate for the commission with the proper representatives of each state having a common border with Texas to allow reciprocal fishing and migratory waterfowl hunting on rivers and lakes on the common boundary between Texas and the border state.
>
> (b) An agreement must provide that a resident of the border state who has a sport fishing license or a hunting license issued by the border state may fish or hunt migratory waterfowl on rivers and lakes of the common border, and a Texas resident holding a Texas license is extended equal privileges. A person who holds a nonresident sport fishing license or a nonresident general hunting license issued by this state or a border state may be extended the same privileges as those extended a resident license holder under this subsection.

Revised Law

Sec. 5156.0202. COMMISSION APPROVAL REQUIRED. An agreement under Section 5156.0201 is not effective until the commission by proclamation has approved the agreement. (Parks & Wild. Code, Sec. 41.004.)

Source Law

> Sec. 41.004. RECIPROCAL AGREEMENTS PROCLAIMED. An agreement under Section 41.003 is not effective until the commission by proclamation has approved it.

Revised Law

Sec. 5156.0203. TERMINATION OF RECIPROCAL LICENSE AGREEMENT. The commission may terminate an agreement under Section

5156.0201 at any time after the 90th day after the date notice of the termination is given to each bordering state that is a party to the agreement. (Parks & Wild. Code, Sec. 41.005.)

Source Law

> Sec. 41.005. TERMINATION OF RECIPROCAL LICENSE AGREEMENT. An agreement under Section 41.003 of this code may be terminated by the commission at any time after 90 days from the day notice of the termination is given to each border state that is a party to the agreement.

Revised Law

Sec. 5156.0204. COMMISSION REGULATIONS. (a) The commission may adopt regulations conforming to an agreement under Section 5156.0201 for the conservation of fish and wildlife.

(b) A regulation may be adopted only at a meeting of the commission in Austin, and any interested person is entitled to be heard at the meeting.

(c) A regulation adopted by the commission or, if the commission authorizes the executive director to issue regulations, issued by the executive director takes effect on the 20th day after the date the regulation is adopted or issued or as otherwise specified by the regulation.

(d) After a regulation is adopted, a copy of the regulation must be:

(1) numbered and filed in the office of the commission;

(2) filed with the secretary of state; and

(3) sent to:

(A) the county clerk and county attorney in each county affected by the regulation;

(B) the appropriate agency in each bordering state to which the agreement applies; and

(C) each department employee who performs duties in a county affected by the regulation. (Parks & Wild. Code, Sec. 41.006.)

Source Law

Sec. 41.006. REGULATIONS FOR RECIPROCAL LICENSE AGREEMENTS. (a) The commission may make regulations conforming to an agreement under Section 41.003 of this code for the conservation of fish and wildlife.

(b) A regulation may be adopted only at a meeting of the commission in Austin, and any interested person is entitled to be heard at the meeting.

(c) Regulations adopted by the commission or issued by the director, when authorized by the commission to issue regulations, take effect 20 days after their adoption or issuance or as otherwise specified in the regulations.

(d) After adoption of a regulation, a copy shall be numbered and filed in the office of the commission. Other copies shall be filed with the secretary of state, sent to the county clerk and county attorney in each county affected by the regulation, sent to the appropriate agency in the border state to which the agreement applies, and sent to each employee of the department who performs duties in a county affected by the regulation.

CHAPTER 5157. COMMERCIAL LICENSES RELATED TO HUNTING

SUBCHAPTER A. HUNTING LEASE LICENSES

Revised Law

Sec. 5157.0101. DEFINITIONS. In this subchapter:

(1) "Guest" means, with respect to a hunting lease, a person who hunts or takes an animal or bird on the hunting lease. The term does not include:

(A) a person who owns the land, or manages a hunting cooperative that has land, on which the hunting lease is located; or

(B) an individual listed on the license application as the landowner's agent who holds the hunting lease license.

(2) "Hunting cooperative" means a cooperative enterprise in which:

(A) participating landowners pool the landowners' acreage and lease the acreage for hunting purposes under the authority of a hunting lease license; and

(B) the leasing profits are distributed to the participating landowners according to the landowners' participation.

(3) "Hunting lease" means the aggregate amount of land that is leased for hunting purposes and owned by one individual, partnership, firm, or corporation or in a hunting cooperative in a county. (Parks & Wild. Code, Secs. 43.041(1), (2) (part), (3), (4).)

Source Law

Sec. 43.041. DEFINITIONS. In this subchapter:

(1) "Hunting cooperative" means a cooperative enterprise in which participating landowners pool their acreage and lease it for hunting purposes under the authority of a hunting lease license and in which the leasing profits are distributed to the landowners according to the landowners' participation.

(2) "Hunting lease" means the aggregate amount of land owned by one individual, partnership, firm, or corporation or the aggregate amount of land in a hunting cooperative in a county and leased for hunting purposes. . . .

(3) "Licensee" means:

(A) a person who owns the land, or manages a hunting cooperative that has land, on which a hunting lease is located; or

(B) an individual listed on the license application as the landowner's agent who holds a hunting lease license.

(4) "Guest" means a person, other than a licensee, who hunts or takes an animal or bird on a hunting lease.

Revisor's Note

Section 43.041(4), Parks and Wildlife Code, defines "guest" to mean certain persons other than a "licensee," and Section 43.041(3) of that code defines "licensee." Because "licensee" is not used elsewhere in Subchapter D, Chapter 43, Parks and Wildlife Code, the revised law omits the definition of "licensee" and substitutes the substance of that definition for "licensee" where it appears in the definition of "guest."

Revised Law

Sec. 5157.0102. HUNTING LEASE LICENSE REQUIRED. (a) The owner of a hunting lease or the landowner's agent may not receive as a guest for pay or other consideration another person engaged in hunting unless the owner or agent holds a hunting lease license issued by the department.

(b) An individual, partnership, firm, or corporation that owns a single tract of land, or a hunting cooperative that has land, located partially in one county and partially in another county is not required to hold a separate hunting lease license for the portion of the land located in the second county, unless the individual, partnership, firm, or corporation or a landowner participating in the hunting cooperative owns other land leased for hunting purposes in the second county. (Parks & Wild. Code, Secs. 43.041(2) (part), 43.042(a).)

Source Law

[Sec. 43.041]

(2) . . . If an individual, partnership, firm, or corporation owns a single tract of land, or if a hunting cooperative has land, located partially in one county and partially in another county, the individual, partnership, firm, or corporation or the hunting cooperative may not be required to have a separate hunting lease license for that portion of the land located in the second county, unless the individual, partnership, firm, or corporation, or a landowner participating in the hunting cooperative, owns other land leased for hunting purposes in the second county. . . .

Sec. 43.042. LICENSE REQUIRED. (a) The owner of a hunting lease or the landowner's agent may not receive as a guest for pay or other consideration another person engaged in hunting unless the owner or agent has acquired a hunting lease license from the department.

Revised Law

Sec. 5157.0103. WILDLIFE MANAGEMENT ASSOCIATION AREA HUNTING LEASE LICENSE. (a) The owner of a tract of land included in a wildlife management association area under Section 5454.0201 may apply for a wildlife management association area hunting lease license for the tract of land.

(b) A wildlife management association area hunting lease license applies only to the tract of land for which the license is issued.

(c) Except as inconsistent with this section, this subchapter applies to a wildlife management association area hunting lease license in the same manner as the subchapter applies to a hunting lease license. (Parks & Wild. Code, Sec. 43.0432.)

Source Law

Sec. 43.0432. WILDLIFE MANAGEMENT ASSOCIATION AREA HUNTING LEASE LICENSES. (a) The owner of a tract of land included in a wildlife management association area under Section 81.301 of this code may apply for a wildlife management association area hunting lease license for that tract of land.

(b) A wildlife management association area hunting lease license applies only to the tract of land for which it is issued.

(c) Except as inconsistent with this section, this subchapter applies to a wildlife management association area hunting lease license in the same manner that it applies to a hunting lease license.

Revised Law

Sec. 5157.0104. LICENSE APPLICATION. (a) The department may:

(1) require an application for a hunting lease license; and

(2) prescribe the form and content of the application.

(b) A hunting cooperative that submits a hunting lease license application must attach to the application a written agreement containing the name, signature, address, and number of acres of each participating landowner included in the hunting cooperative. (Parks & Wild. Code, Sec. 43.0431.)

Source Law

Sec. 43.0431. APPLICATION FOR LICENSE. (a) The department may require an application for a license and may prescribe the form and content of the application.

(b) A written agreement containing the name, signature, address, and number of acres for each participating landowner included in a hunting cooperative must be attached to the application for a hunting lease license for a hunting lease that is a hunting cooperative.

Revised Law

Sec. 5157.0105. LICENSE FEES. (a) Except as otherwise provided by this section, the fee for a hunting lease license is an amount determined under the following schedule or a greater amount set by the commission:

(1) $15 if the area of the hunting lease is less than 500 acres;

(2) $40 if the area of the hunting lease is at least

500 acres but less than 1,000 acres; and

(3) $60 if the area of the hunting lease is 1,000 acres or more.

(b) The fee for a hunting lease license for a hunting cooperative is:

(1) $60 plus $5 per participating landowner if the area of the hunting lease is less than 10,000 acres;

(2) $120 plus $5 per participating landowner if the area of the hunting lease is at least 10,000 but not more than 50,000 acres; and

(3) $240 plus $5 per participating landowner if the area of the hunting lease is more than 50,000 acres.

(c) The fee for a wildlife management association area hunting lease license is:

(1) $30 plus $5 per participating landowner if the area is less than 10,000 acres;

(2) $60 plus $5 per participating landowner if the area is at least 10,000 but not more than 50,000 acres; and

(3) $120 plus $5 per participating landowner if the area is more than 50,000 acres.

(d) The license fee required by this subchapter for an individual, partnership, firm, or corporation that owns a single tract of land, or for a hunting cooperative that has land, located partially in one county and partially in another county and that is not required to hold two hunting lease licenses for that land is determined by using the aggregate acreage of the land included in the area of the hunting lease. (Parks & Wild. Code, Secs. 43.041(2) (part), 43.044.)

Source Law

[Sec. 43.041]

(2) . . . If an individual, partnership, firm, or corporation owns a single tract of land, or if a hunting cooperative has land, located partially in one county and partially in another county and the individual, partnership, firm, or corporation or the hunting cooperative is not required to have two licenses, the aggregate acreage of the tract shall be used for determining the amount of the license fee

required by this subchapter.

Sec. 43.044. LICENSE FEES. (a) The fees for hunting lease licenses, other than hunting leases that are hunting cooperatives, are determined by the following schedule or determined by the commission, whichever amount is more:

(1) $15 if the area of the hunting lease is less than 500 acres;

(2) $40 if the area of the hunting lease is 500 acres or more but less than 1,000 acres; and

(3) $60 if the area of the hunting lease is 1,000 acres or more.

(b) The fee for a license for a hunting lease that is a hunting cooperative is as follows:

(1) $60 + $5 per participating landowner if the area of the hunting lease is less than 10,000 acres;

(2) $120 + $5 per participating landowner if the area of the hunting lease is between 10,000 and 50,000 acres; and

(3) $240 + $5 per participating landowner if the area of the hunting lease is over 50,000 acres.

(c) The fee for a wildlife management association area hunting lease license is:

(1) $30 + $5 per participating landowner if the area of the wildlife management association is less than 10,000 acres;

(2) $60 + $5 per participating landowner if the area of the wildlife management association is between 10,000 and 50,000 acres; and

(3) $120 + $5 per participating landowner if the area of the wildlife management association is over 50,000 acres.

Revised Law

Sec. 5157.0106. LICENSE ISSUANCE. The department may issue a hunting lease license only in the name of the owner of the hunting lease or the landowner's agent. (Parks & Wild. Code, Sec. 43.043.)

Source Law

Sec. 43.043. ISSUANCE OF LICENSE. The department may issue a hunting lease license only in the name of the owner of a hunting lease or the name of the landowner's agent.

Revised Law

Sec. 5157.0107. LICENSE TERM. A hunting lease license is valid for the yearly period that:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission. (Parks & Wild. Code, Sec. 43.045 (part).)

Source Law

Sec. 43.045. DURATION OF LICENSE. A hunting lease license is valid for the period from September 1 or another date set by the commission through August 31 of the next year or another date set by the commission. . . .

Revised Law

Sec. 5157.0108. LICENSE ISSUED FOR TRANSITION PERIOD. The commission by rule may:

(1) provide for a hunting lease license term for a transition period that is less than or exceeds one year; and

(2) set the fee for a hunting lease license issued during a transition period at an amount less than the amount prescribed by this subchapter for that license. (Parks & Wild. Code, Sec. 43.045 (part).)

Source Law

Sec. 43.045. . . . The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this subchapter and provide for a license term for a transition period that is shorter or longer than a year.

Revised Law

Sec. 5157.0109. LICENSE DISPLAY. A hunting lease license must be displayed on the hunting lease. (Parks & Wild. Code, Sec. 43.042(b).)

Source Law

(b) The license shall be displayed on the hunting lease.

Revised Law

Sec. 5157.0110. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 43.055.)

Source Law

Sec. 43.055. PENALTY. A person who violates any provision of this subchapter or who fails to comply with any provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 43.055, Parks and Wildlife Code, provides that a person commits an offense if the person "violates . . . or . . . fails to comply with" a provision of Subchapter D, Chapter 43, of that code. The revised law omits "fails to comply with" because failure to comply with a provision of the subchapter is a violation of that provision.

SUBCHAPTER B. PRIVATE BIRD HUNTING AREA LICENSE

Revised Law

Sec. 5157.0201. DEFINITIONS. In this subchapter:

(1) "Guest" means, with respect to a private bird hunting area, a person, other than a private bird hunting area license holder for the area, who hunts or takes birds on the area.

(2) "Pen-reared bird" means a bobwhite quail, pheasant, pigeon, partridge, or mallard duck propagated or acquired under Subchapter E.

(3) "Private bird hunting area" means a tract of land on which the hunting or taking of pen-reared birds is authorized under this subchapter. (Parks & Wild. Code, Secs. 43.071(1), (2), (3), (5).)

Source Law

Sec. 43.071. DEFINITIONS. In this subchapter:

(1) "Private bird hunting area" means a tract of land on which the hunting or taking of pen-reared birds is authorized under this subchapter.

(2) "Licensee" means a person who holds a private bird hunting area license.

(3) "Guest" means a person other than a licensee who hunts or takes birds on a private bird hunting area.

(5) "Pen-reared birds" means bobwhite quail, pheasant, pigeons, partridge, and mallard ducks propagated or acquired under Chapter 45 of this code.

Revisor's Note

Section 43.071(2), Parks and Wildlife Code, defines "licensee" as a person who holds a private bird hunting area license. For clarity and consistency in terminology used in this code, the revised law omits

that definition and substitutes the substance of the definition for "licensee" where it appears in Subchapter F, Chapter 43, Parks and Wildlife Code, revised as this subchapter and Subchapter C of this chapter.

Revised Law

Sec. 5157.0202. COMMISSION REGULATIONS. The commission may adopt regulations necessary to administer this subchapter, including any provision, limitation, or prohibition necessary to manage and protect game birds occurring naturally in the wild. (Parks & Wild. Code, Sec. 43.0762.)

Source Law

> Sec. 43.0762. REGULATIONS. The commission may adopt regulations necessary to administer this subchapter, including any provision, limitation, or prohibition necessary to manage and protect game birds occurring naturally in the wild.

Revised Law

Sec. 5157.0203. PRIVATE BIRD HUNTING AREA LICENSE REQUIRED. A person may not release a banded pen-reared bird under this subchapter unless the person holds a private bird hunting area license. (Parks & Wild. Code, Sec. 43.0721(a).)

Source Law

> Sec. 43.0721. LICENSE REQUIRED. (a) No person may release banded pen-reared birds under this subchapter unless the person holds a valid private bird hunting area license.

Revisor's Note

Section 43.0721(a), Parks and Wildlife Code, refers to a "valid private bird hunting area license." Throughout this chapter, the revised law omits "valid" from this phrase and similar phrases referring to a particular license or permit as unnecessary because the word does not add to the clear meaning of the law. A purported license or permit is not a license or permit if it is not valid.

Revised Law

Sec. 5157.0204. LICENSE APPLICATION. (a) Any person may apply to the department for a private bird hunting area license.

(b) An application for a private bird hunting area license must:

(1) be on a form the department prescribes; and

(2) include:

(A) the applicant's name and address;

(B) the number of contiguous acres to be licensed;

(C) the property's name and general location; and

(D) the species of pen-reared birds to be hunted.

(Parks & Wild. Code, Sec. 43.072.)

Source Law

Sec. 43.072. APPLICATION FOR LICENSE. (a) Any person may apply to the department for a private bird hunting area license.

(b) The application for a private bird hunting area license must be on a form supplied by the department and must include:

(1) the name and address of the applicant;

(2) the total number of contiguous acres to be licensed;

(3) the name and general location of the property; and

(4) the species of pen-reared birds to be hunted.

Revisor's Note

Section 43.072(b)(2), Parks and Wildlife Code, refers to the "total number of contiguous acres" to be licensed. The revised law omits "total" because, in context, "total" is included in the meaning of "number of contiguous acres."

Revised Law

Sec. 5157.0205. LICENSE FEE. The fee for a private bird hunting area license is $60 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 43.0722(c).)

Source Law

(c) The fee for a private bird hunting area license is $60 or an amount set by the commission, whichever amount is more.

Revised Law

Sec. 5157.0206. LICENSE ISSUANCE AND VALIDITY. (a) The department may issue a private bird hunting area license under this subchapter.

(b) The department shall prescribe the form of a private bird hunting area license and issue the license in the name of a person.

(c) The department may not issue more than one private bird hunting area license for a single tract of land.

(d) A private bird hunting area license is valid only for the tract of land for which the license is issued. (Parks & Wild. Code, Secs. 43.0722(a), (b), (d), (e), 43.076.)

Source Law

> Sec. 43.0722. ISSUANCE OF LICENSE; FEE; VALIDITY. (a) The department may issue a license for a private bird hunting area under this subchapter.
>
> (b) The license shall be issued in the name of a person.
>
> (d) The department may not issue more than one private bird hunting area license for a single tract of land.
>
> (e) A private bird hunting area license is valid only for the tract of land for which it is issued.
>
> Sec. 43.076. LICENSE FORM. A private bird hunting area license must be on a form prescribed by the department.

Revised Law

Sec. 5157.0207. LICENSE TERM. A private bird hunting area license is valid for the yearly period that:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission. (Parks & Wild. Code, Sec. 43.0722(f) (part).)

Source Law

> (f) The private bird hunting area license is valid from September 1 or another date set by the commission through August 31 of the next year or another date set by the commission. . . .

Revised Law

Sec. 5157.0208. LICENSE ISSUED FOR TRANSITION PERIOD. The commission by rule may:

(1) provide for a private bird hunting area license term for a transition period that is less than or exceeds one year; and

(2) set the fee for a private bird hunting area license issued during a transition period at an amount less than the amount prescribed by this subchapter. (Parks & Wild. Code, Sec. 43.0722(f) (part).)

Source Law

> (f) . . . The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this subchapter and provide for a license term for a transition period that is shorter or longer than a year.

Revised Law

Sec. 5157.0209. LICENSE DISPLAY. A private bird hunting area license must be displayed on the private bird hunting area for which the license is issued. (Parks & Wild. Code, Sec. 43.0721(b).)

Source Law

> (b) The license must be displayed on the private bird hunting area.

Revised Law

Sec. 5157.0210. HUNTING LICENSE REQUIRED. This subchapter does not authorize a person to hunt pen-reared birds on a licensed private bird hunting area without having in the person's immediate possession a hunting license required by Chapter 5151. (Parks & Wild. Code, Sec. 43.078(a).)

Source Law

> Sec. 43.078. HUNTING LICENSE REQUIRED. (a) Except as provided by Subsection (b) of this section, this subchapter does not authorize any person to hunt pen-reared birds on a licensed private bird hunting area without having in the person's immediate possession a hunting license required by Chapter 42 of this code.

Revisor's Note

Section 43.078(a), Parks and Wildlife Code,

provides that Subchapter F, Chapter 43, of that code does not authorize a person to hunt pen-reared birds on a licensed private bird hunting area without having in the person's immediate possession a hunting license required by Chapter 42 of that code, "[e]xcept as provided by Subsection (b) of this section." Section 43.078(b), Parks and Wildlife Code, revised as Section 5157.0308, provides an exemption from the requirement to hold a hunting license under Chapter 42 for persons participating in a field trial held under a field trial permit issued under Subchapter F, Chapter 43. The revised law omits the quoted language because the provisions of Subchapter F, Chapter 43, relating to field trial permits are revised as Subchapter C of this chapter, and this subchapter does not contain another exception to the referenced requirement.

Revised Law

Sec. 5157.0211. HUNTING LEASE LICENSE NOT REQUIRED. A person is not required to hold a hunting lease license issued under Subchapter A to hunt banded pen-reared birds released under the authority of this subchapter. (Parks & Wild. Code, Sec. 43.0721(c).)

Source Law

(c) A person is not required to hold a hunting lease license issued under Subchapter D to hunt banded pen-reared birds released under the authority of this subchapter.

Revised Law

Sec. 5157.0212. BREEDER'S LICENSE REQUIREMENT NOT AFFECTED. This subchapter does not exempt a private bird hunting area license holder from the requirement to hold a commercial game bird breeder's license under Subchapter E if pen-reared birds are propagated on the licensed area. (Parks & Wild. Code, Sec. 43.075(e).)

Source Law

(e) This subchapter may not be construed to exempt the holder of a private bird hunting area license from the requirement of a commercial game bird breeder's license if the pen-reared birds are propagated on the licensed area.

Revised Law

Sec. 5157.0213. PRIVATE BIRD HUNTING AREA SEASON. (a) The private bird hunting area season:

(1) begins each September 1; and

(2) extends through the following August 31.

(b) A private bird hunting area license holder or a guest may take banded pen-reared birds on the licensed private bird hunting area during the private bird hunting area season. (Parks & Wild. Code, Sec. 43.074.)

Source Law

Sec. 43.074. TAKING OF PEN-REARED BIRDS AUTHORIZED. (a) A licensee or a guest may take banded pen-reared birds on a licensed private bird hunting area during the private bird hunting area season.

(b) The private bird hunting area season begins each September 1 and extends through the following August 31.

Revised Law

Sec. 5157.0214. AREA LIMITATIONS AND SIGNS. (a) A private bird hunting area must consist of contiguous acreage owned by an individual, partnership, firm, or corporation.

(b) A private bird hunting area must be distinguished from any other club, hunting lease, or other premises leased for hunting purposes by clearly marking the area's boundaries with wood, plastic, or metal signs bearing:

(1) the words "Private Bird Hunting Area"; and

(2) the identification number.

(c) The lettering and identification number on a sign required under this section must be in:

(1) block letters and Arabic numerals not less than three inches high; and

(2) a color that contrasts with the background.

(d) A sign required under this section must be placed at

each entrance to a private bird hunting area to clearly identify the boundaries of the area. (Parks & Wild. Code, Sec. 43.073.)

Source Law

> Sec. 43.073. AREA LIMITATIONS AND MARKINGS. (a) A private bird hunting area must consist of contiguous acreage owned by an individual, partnership, firm, or corporation.
>
> (b) A private bird hunting area shall be distinguished from any other club, hunting lease, or other leased premises for hunting purposes by clearly marking its boundaries with wood, plastic, or metal signs bearing the words, "Private Bird Hunting Area," and the identification number. The lettering and identification number on these signs must be in block letters and arabic numbers not less than three inches high, and must be in a color that contrasts with the background.
>
> (c) Signs must be placed at each entrance to a private bird hunting area to identify clearly the boundaries of each licensed area.

Revised Law

Sec. 5157.0215. PEN-REARED BIRDS HELD IN CAPTIVITY. A private bird hunting area license holder may hold pen-reared birds in captivity on the private bird hunting area only for release to provide hunting. (Parks & Wild. Code, Sec. 43.075(a).)

Source Law

> Sec. 43.075. GAME BIRDS IN CAPTIVITY; BANDING. (a) A licensee may hold pen-reared birds in captivity on the private bird hunting area only for release to provide hunting.

Revised Law

Sec. 5157.0216. BANDING REQUIRED FOR PEN-REARED BIRDS. (a) A pen-reared bird may be released on a private bird hunting area only if the bird is banded with a metal or plastic band before release.

(b) Each band required by this section must show the identification number of the private bird hunting area license holder for the private bird hunting area.

(c) Except as provided by Subsection (d), a band required by this section must remain on each bird killed until the bird is taken to:

(1) the permanent residence of the hunter or another person receiving the bird; or

(2) a cold storage or processing facility.

(d) Subsection (c) does not apply if the name and identification number of the private bird hunting area license holder for the private bird hunting area on which the bird was killed is stamped or printed on the box, wrapping, or package containing the carcass of a bird that is processed and possessed, shipped, or transported without a band required by this section attached. (Parks & Wild. Code, Secs. 43.075(b), (c), (d).)

Source Law

(b) All pen-reared birds released on a private bird hunting area shall be banded with a metal or plastic band before release.

(c) Each band must show the identification number of the licensee.

(d) The band must remain on each bird killed until the bird is taken to the permanent residence of the hunter, the permanent residence of another person receiving the bird, or a cold storage or processing facility unless the name and identification number of the licensee has been stamped or printed on the box, wrapping, or package containing the carcass of a bird that has been processed and possessed, shipped, or transported without the band attached.

Revisor's Note

Section 43.075(c), Parks and Wildlife Code, requires that each band placed on a pen-reared bird as required by that section must show the identification number of the "licensee." The revised law substitutes "private bird hunting area license holder for the private bird hunting area" for "licensee" because it is clear from the context of that section that "licensee" refers to the private bird hunting area license holder for the private bird hunting area on which pen-reared birds are killed.

Revised Law

Sec. 5157.0217. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter or a commission regulation adopted under this subchapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 43.077.)

Source Law

Sec. 43.077. PENALTY. A person who violates any provision of this subchapter or a regulation of the commission under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUBCHAPTER C. FIELD TRIAL PERMIT FOR BANDED PEN-REARED BIRDS

Revised Law

Sec. 5157.0301. DEFINITIONS. In this subchapter:

(1) "Field trial" means the hunting of banded pen-reared birds in a formal trial of bird dogs that has been licensed or sanctioned by an organization or association of bird dog clubs, without regard to whether points are awarded.

(2) "Field trial permit" means a permit issued by the department under this subchapter.

(3) "Pen-reared bird" and "private bird hunting area" have the meanings assigned by Section 5157.0201. (Parks & Wild. Code, Secs. 43.071(1) (part), (4), (5) (part); New.)

Source Law

Sec. 43.071. DEFINITIONS. In this subchapter:

(1) "Private bird hunting area" [means a tract of land on which the hunting or taking of pen-reared birds is authorized under this subchapter.]

(4) "Field trial" means the hunting of banded pen-reared birds in a formal trial of bird dogs that has been licensed or sanctioned by an organization or association of bird dog clubs, with or without the awarding of points.

(5) "Pen-reared birds" [means bobwhite quail, pheasant, pigeons, partridge, and mallard ducks propagated or acquired under Chapter 45 of this code.]

Revisor's Note

The definition of "field trial permit" is added to the revised law for drafting convenience and clarity.

Revised Law

Sec. 5157.0302. COMMISSION REGULATIONS. The commission may adopt regulations necessary to administer this subchapter, including any provision, limitation, or prohibition necessary to manage and protect game birds occurring naturally in the wild. (Parks & Wild. Code, Sec. 43.0762.)

Source Law

Sec. 43.0762. REGULATIONS. The commission may adopt regulations necessary to administer this subchapter, including any provision, limitation, or prohibition necessary to manage and protect game birds occurring naturally in the wild.

Revised Law

Sec. 5157.0303. FIELD TRIAL PERMIT REQUIRED. A person, club, or organization may not hold a field trial unless the person, club, or organization has in the person's, club's, or organization's immediate possession a field trial permit. (Parks & Wild. Code, Sec. 43.0764(a).)

Source Law

Sec. 43.0764. FIELD TRIAL PERMIT; FEE; VALIDITY. (a) No person, club, or organization may hold a field trial unless that person, club, or organization has in its immediate possession a valid field trial permit issued by the department.

Revised Law

Sec. 5157.0304. PERMIT APPLICATION. (a) Any person, including a private bird hunting area license holder, may apply to the department for a field trial permit.

(b) An application for a field trial permit must:

(1) be on a form the department prescribes; and

(2) contain:

(A) the applicant's name and address;

(B) the name, address, and identification number of the private bird hunting area license holder for the private bird hunting area on which the field trial is to be held;

(C) the species of birds to be used in the field trial; and

(D) the name of the association or organization of bird dog clubs licensing or sanctioning the field trial. (Parks & Wild. Code, Sec. 43.0763.)

Source Law

Sec. 43.0763. APPLICATION FOR FIELD TRIAL PERMIT. (a) Any person, including a licensee, may apply to the department for a field trial permit.

(b) The application must be on a form prescribed by the department and must contain the following

information:

(1) name and address of the applicant;

(2) name, address, and identification number of the licensee for the private bird hunting area at which the field trial is to be held;

(3) the species of birds to be used in the field trial; and

(4) the name of the association or organization of bird dog clubs licensing or sanctioning the field trial.

Revised Law

Sec. 5157.0305. PERMIT FEE. The fee for a field trial permit is $50 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 43.0764(b).)

Source Law

(b) The fee for a field trial permit is $50 or an amount set by the commission, whichever amount is more.

Revised Law

Sec. 5157.0306. PERMIT ISSUANCE. The department shall issue a field trial permit in the name of an individual. (Parks & Wild. Code, Sec. 43.0764(c).)

Source Law

(c) A field trial permit shall be issued in the name of an individual.

Revised Law

Sec. 5157.0307. PERMIT TERM AND VALIDITY. A field trial permit is valid:

(1) for a period of nine consecutive days; and

(2) only for the tract of land or premises that is licensed as a private bird hunting area. (Parks & Wild. Code, Secs. 43.0764(d), (e).)

Source Law

(d) A field trial permit is valid for a period of nine consecutive days.

(e) A field trial permit is not valid for a tract of land or premises that is not licensed as a private bird hunting area.

Revised Law

Sec. 5157.0308. EXEMPTION FROM HUNTING LICENSE REQUIREMENT. A person registered to participate in a field trial held under a field trial permit is exempt, for the field trial, from

the requirement to hold a hunting license under Chapter 5151. (Parks & Wild. Code, Sec. 43.078(b).)

Source Law

> (b) A person registered to participate in a field trial held under a field trial permit issued by the department is exempt, for the field trial, from the hunting license requirements of Chapter 42 of this code.

Revised Law

Sec. 5157.0309. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter or a commission regulation adopted under this subchapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 43.077.)

Source Law

> Sec. 43.077. PENALTY. A person who violates any provision of this subchapter or a regulation of the commission under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUBCHAPTER D. GAME BREEDER'S LICENSE

Revised Law

Sec. 5157.0401. DEFINITIONS. In this subchapter:

(1) "Captivity" means, with respect to a game animal, the state of being kept in an enclosure suitable for and capable of:

(A) retaining the animal the enclosure is designed to retain at all times under reasonable and ordinary circumstances; and

(B) preventing entry by another animal.

(2) "Game animal" means a pronghorn antelope, collared peccary or javelina, or red or gray squirrel. (Parks & Wild. Code, Secs. 44.001(2), (3).)

Source Law

> Sec. 44.001. DEFINITIONS. In this chapter:
>
> (2) "Captivity" means the keeping of game animals in an enclosure suitable for and capable of retaining the animal it is designed to retain at all times under reasonable and ordinary circumstances and to prevent entry by another animal.
>
> (3) "Game animal" means a pronghorn antelope, a collared peccary or javelina, or a red or gray squirrel.

Revisor's Note

Section 44.001(1), Parks and Wildlife Code, defines "game breeder" for purposes of Chapter 44 of that code as a person holding a valid game breeder's license. The revised law omits the definition and, throughout this subchapter, substitutes the substance of the definition for "game breeder" for consistency in terminology used in this code to refer to a person holding a particular license. The omitted law reads:

> (1) "Game breeder" means a person holding a valid game breeder's license.

Revised Law

Sec. 5157.0402. APPLICABILITY OF OTHER LAW. (a) A game animal and increase from the game animal are under the full force of the laws of this state pertaining to wild game.

(b) To preserve native game species, a game animal held under a game breeder's license is subject to all laws and regulations of this state pertaining to wild game animals except as specifically provided by this subchapter. (Parks & Wild. Code, Secs. 44.013(a) (part), 44.014.)

Source Law

> [Sec. 44.013]
> (a) . . . All game animals listed in Subdivision (2) of Section 44.006 of this code and increase from those game animals are under the full force of the laws of this state pertaining to wild game and . . . .
>
> Sec. 44.014. APPLICATION OF GENERAL LAWS. In order that native game species may be preserved, game animals held under a game breeder's license are subject to all laws and regulations of this state pertaining to wild game animals except as specifically provided in this chapter.

Revisor's Note

Section 44.013(a), Parks and Wildlife Code, refers to "game animals listed in Subdivision (2) of Section 44.006 of this code." Throughout this subchapter, the revised law omits the quoted language and similar language referencing game animals listed

in Section 44.006(2) because Chapter 992 (H.B. 2026), Acts of the 79th Legislature, Regular Session, 2005, effectively repealed the list of game animals in Section 44.006(2) and replaced the list with a definition of "game animal" in Section 44.001, Parks and Wildlife Code, revised in pertinent part as Section 5157.0401.

Revised Law

Sec. 5157.0403. GAME BREEDER'S LICENSE REQUIRED; SCOPE OF PRIVILEGE. (a) A person may not sell, place in captivity, or engage in the business of propagating a game animal of this state unless the person holds a game breeder's license issued by the department.

(b) A person may hold a game animal in captivity for propagation in this state only after the department issues a game breeder's license to the person.

(c) A game breeder's license holder may:

(1) engage in the business of game breeding in the immediate locality for which the license is issued;

(2) sell a game animal; and

(3) hold a game animal in captivity for propagation or sale purposes. (Parks & Wild. Code, Secs. 44.002, 44.006, 44.013(a) (part).)

Source Law

Sec. 44.002. LICENSE REQUIREMENT. No person may sell, place in captivity, or engage in the business of propagating any game animal of this state unless the person has obtained a license issued under this chapter from the department.

Sec. 44.006. LICENSE PRIVILEGES. The holder of a valid game breeder's license may:

(1) engage in the business of game breeding in the immediate locality for which the license was issued; or

(2) sell or hold in captivity for the purpose of propagation or sale a game animal.

[Sec. 44.013]

(a) . . . the game animals may be held in captivity for propagation in this state only after a license is issued by the department under this chapter.

Revised Law

Sec. 5157.0404. LICENSE FEE. The fee for a game breeder's license is $10 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 44.003 (part).)

Source Law

> Sec. 44.003. GAME BREEDER'S LICENSE. [The department shall issue] a game breeder's license [on payment of] a license fee of $10 or an amount set by the commission, whichever amount is more. . . .

Revised Law

Sec. 5157.0405. LICENSE ISSUANCE. The department shall issue a game breeder's license on payment of the fee required by Section 5157.0404. (Parks & Wild. Code, Sec. 44.003 (part).)

Source Law

> Sec. 44.003. GAME BREEDER'S LICENSE. The department shall issue a game breeder's license on payment of [a license fee of $10 or an amount set by the commission, whichever amount is more.] . . .

Revisor's Note

> Section 44.003, Parks and Wildlife Code, requires the Parks and Wildlife Department to issue a game breeder's license on payment of a license fee of $10 or an amount set by the commission. The provision establishing the amount of the fee for the license is revised as Section 5157.0404, while the provision requiring the issuance of the license on payment of the fee is revised in this section. The revised law is drafted accordingly.

Revised Law

Sec. 5157.0406. LICENSE TERM. A game breeder's license is valid for the yearly period that:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission. (Parks & Wild. Code, Sec. 44.003 (part).)

Source Law

Sec. 44.003. . . . The license is valid for a yearly period. 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. . . .

Revised Law

Sec. 5157.0407. LICENSE ISSUED FOR TRANSITION PERIOD. The commission by rule may:

(1) provide for a game breeder's license term for a transition period that is less than or exceeds one year; and

(2) set the fee for a game breeder's license issued during a transition period at an amount less than the amount prescribed by this subchapter. (Parks & Wild. Code, Sec. 44.003 (part).)

Source Law

Sec. 44.003. . . . The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this section and provide for a license term for a transition period that is shorter or longer than a year.

Revised Law

Sec. 5157.0408. SERIAL NUMBER. (a) The department shall issue a serial number to a game breeder's license holder at the time the department first issues the license to the holder.

(b) The department must assign the same serial number to a game breeder's license holder each time the department issues a game breeder's license to the holder. (Parks & Wild. Code, Sec. 44.005(a).)

Source Law

Sec. 44.005. SERIAL NUMBER. (a) The department shall issue a serial number to the applicant at the time of the first issuance of a game breeder's license to the applicant. The same serial number shall be assigned to the licensee whenever he holds a game breeder's license.

Revisor's Note

Section 44.005, Parks and Wildlife Code, requires the Parks and Wildlife Department to issue a serial number to the "applicant" for a game breeder's license

when the department first issues the license. The revised law substitutes "holder" for "applicant" because it is clear from the context that the department must issue a serial number at the time the department first issues a game breeder's license to the holder of the license under that section.

Revised Law

Sec. 5157.0409. LICENSE REISSUANCE ELIGIBILITY. The department may not issue a game breeder's license to a person who previously held a game breeder's license unless the person files with the department:

(1) a copy of the record required by Section 5157.0410; and

(2) an affidavit sworn before an officer qualified to administer oaths that the copy of the record is true and correct. (Parks & Wild. Code, Sec. 44.004.)

Source Law

Sec. 44.004. REISSUANCE OF LICENSE. A game breeder's license may not be issued to a previous licensee unless the licensee has filed with the department a copy of the record required by Section 44.007 of this code with an affidavit made before an officer qualified to administer oaths that the copy is true and correct.

Revised Law

Sec. 5157.0410. RECORD; REPORT. (a) A game breeder's license holder shall keep a written record in a suitably bound book for the period from August 1 until the following July 31, or another yearly period set by the commission, containing:

(1) the number and source of each kind of game animal on hand at the time the department issues the license;

(2) the number, source, and date of receipt of each kind of game animal on hand at any time after the department issues the license;

(3) the number of each kind of game animal shipped or delivered, the date of shipment or delivery, and the name and address of the person to whom the animal is shipped or delivered;

and

(4) any other information the commission determines is necessary to enforce this subchapter.

(b) During August, or another month set by the commission, of each year, but before August 31 or another date set by the commission, a game breeder's license holder shall send to the department a report showing the information required by this section. (Parks & Wild. Code, Sec. 44.007.)

Source Law

Sec. 44.007. RECORDS. (a) Each game breeder shall keep a written record in a suitably bound book for the period from August 1 until the following July 31 or another yearly period established by the commission containing:

(1) the number and source of each kind of game animal on hand at the time the license is issued;

(2) the number, source, and date of receipt of each kind of game animal on hand at any time after the license is obtained;

(3) the number of each kind of game animal shipped or delivered, the date of shipment or delivery, and the name and address of persons to whom the shipment or delivery is made; and

(4) any other information determined by the commission to be necessary to enforce the provisions of this chapter.

(b) During August or another month set by the commission of each year, but before August 31 or another date established by the commission, a game breeder shall send to the department a report showing the information required by this section.

Revised Law

Sec. 5157.0411. SALE OR PURCHASE OF LIVE GAME ANIMAL. (a) A game breeder's license holder may sell, barter, or exchange or offer for sale, barter, or exchange only a game animal that is in a healthy condition.

(b) A person may not purchase or accept a live game animal in this state unless the game animal:

(1) bears a tag required by Section 5157.0415 and is delivered or sold by a game breeder's license holder; or

(2) is delivered by a common carrier from outside this state. (Parks & Wild. Code, Sec. 44.011.)

Source Law

Sec. 44.011. PURCHASE AND SALE OF LIVE GAME ANIMALS. (a) Only game animals that are in a healthy

condition may be sold, bartered, or exchanged, or offered for sale, barter, or exchange by a game breeder.

(b) No person may purchase or accept in this state a live game animal unless:

(1) the game animal bears a tag required by Section 44.005 of this code and is delivered or sold by a game breeder; or

(2) the game animal is delivered by a common carrier from outside this state.

Revisor's Note

Section 44.011(b)(1), Parks and Wildlife Code, refers to a tag required by Section 44.005 of that code. Section 44.005 is revised in pertinent part as Section 5157.0415, and the revised law is drafted accordingly.

Revised Law

Sec. 5157.0412. TRANSFER RESTRICTED DURING AND IMMEDIATELY BEFORE OPEN SEASON. A game animal held under the authority of a game breeder's license may not be sold, traded, transferred, or shipped to a person in a county during:

(1) an open season for taking the game animal in the county of destination; or

(2) the 10-day period preceding the open season described by Subdivision (1). (Parks & Wild. Code, Sec. 44.012.)

Source Law

Sec. 44.012. SALE DURING OPEN SEASON. A game animal held under the authority of a license issued under this subchapter may not be sold, traded, transferred, or shipped to any person in any county during an open season in the county of destination for taking the game animal or during a period of 10 days before the open season.

Revised Law

Sec. 5157.0413. RESTRICTIONS ON SHIPMENT OF LIVE GAME ANIMAL. (a) A common carrier may not accept a live game animal for shipment unless the shipment is made by a game breeder's license holder.

(b) A person may not transport or ship a live game animal unless the person:

(1) holds a game breeder's license or is the authorized agent of a game breeder's license holder; or

(2) obtains from the department a permit to ship or transport the animal. (Parks & Wild. Code, Sec. 44.010.)

Source Law

> Sec. 44.010. SHIPMENT OF GAME ANIMALS. (a) A common carrier may not accept a live game animal unless the game animal is one listed in Section 44.006(2) of this code and the shipment is made by a game breeder.
>
> (b) No person, except a game breeder or his authorized agent, may transport or ship a live game animal unless he obtains a permit for shipment or transportation from the department.

Revised Law

Sec. 5157.0414. USE OF GAME ANIMAL. (a) Except as otherwise provided by this section, a person may purchase or receive a game animal in this state only for:

(1) release for stocking purposes; or

(2) holding for propagation purposes.

(b) A person may hold, take, or receive any game animal for a scientific and zoological purpose under a permit issued by the department under Subchapter G, Chapter 5159.

(c) The department or an authorized department employee may take, possess, hold, transport, or propagate any game animal of this state for a public purpose. (Parks & Wild. Code, Secs. 44.013(a) (part), (b), 44.015.)

Source Law

> Sec. 44.013. USE OF PURCHASED GAME ANIMALS. (a) Except as provided in Subsection (b) of this section, game animals listed in Subdivision (2) of Section 44.006 of this code may be purchased or received in this state only for the purpose of liberation for stocking purposes or holding for propagation purposes. . . .
>
> (b) Any game animal may be held, taken, or received for scientific and zoological purposes under a permit issued by the department pursuant to Section 43.022 of this code.

> Sec. 44.015. RIGHT OF DEPARTMENT. The department or an authorized employee of the department may take, possess, hold, transport, or propagate any game animal of this state for public purposes.

Revisor's Note

Section 44.013(a), Parks and Wildlife Code, refers to "liberation" of certain game animals. For consistency in terminology used in this subtitle, the

revised law substitutes "release" for "liberation" because, in this context, the terms are synonymous and "release" is more commonly used.

Revised Law

Sec. 5157.0415. TAG REQUIRED FOR CERTAIN GAME ANIMALS. A game breeder's license holder shall place a suitable permanent tag bearing the license holder's serial number issued under Section 5157.0408 on the ear of each pronghorn antelope or collared peccary or javelina the license holder holds in captivity. (Parks & Wild. Code, Sec. 44.005(b).)

Source Law

(b) The game breeder shall place a suitable permanent tag bearing the game breeder's serial number on the ear of each pronghorn antelope or collared peccary or javelina held in captivity by the game breeder.

Revisor's Note

Section 44.005(b), Parks and Wildlife Code, refers to the game breeder's "serial number." It is clear from the context that the serial number referred to is the serial number issued to the game breeder under Section 44.005(a), Parks and Wildlife Code, revised as Section 5157.0408, and the revised law adds a reference to that section for clarity and the convenience of the reader.

Revised Law

Sec. 5157.0416. ENCLOSURE SIZE. A single enclosure for a game animal may not contain more than 320 acres. (Parks & Wild. Code, Sec. 44.008.)

Source Law

Sec. 44.008. ENCLOSURE SIZE. A single enclosure for any game animal may not contain more than 320 acres.

Revised Law

Sec. 5157.0417. INSPECTION BY DEPARTMENT EMPLOYEE. An authorized department employee may inspect a pen, coop, or enclosure holding a game animal at any time without a warrant.

(Parks & Wild. Code, Sec. 44.009.)

Source Law

Sec. 44.009. INSPECTION. An authorized employee of the department may inspect at any time and without warrant any pen, coop, or enclosure holding a game animal.

Revised Law

Sec. 5157.0418. REQUIRED PROVISION OF CERTAIN INFORMATION. A person shall provide to a game warden commissioned by the department information regarding the source of game animals held in captivity. (Parks & Wild. Code, Sec. 44.0125(3).)

Source Law

Sec. 44.0125. PROHIBITED ACTS. It is an offense if:

. . .

(3) a person fails to furnish to a game warden commissioned by the department information as to the source from which game animals held in captivity were derived.

Revisor's Note

Section 44.0125(3), Parks and Wildlife Code, provides that a person who fails to provide certain information to a game warden commissioned by the Parks and Wildlife Department commits an offense. For clarity, the revised law restates the provision as an affirmative duty to provide the information rather than a prohibition on failing to provide the information but omits the portion of the provision creating an offense because it duplicates in substance Section 44.016, Parks and Wildlife Code, revised as Section 5157.0420, which creates an offense for violating a provision of Chapter 44 of that code.

Revised Law

Sec. 5157.0419. PROHIBITED ACTS. A game breeder's license holder may not:

(1) take, trap, or capture or attempt to take or capture game animals from the wild; or

(2) allow the hunting or killing of a game animal held

in captivity under this subchapter. (Parks & Wild. Code, Secs. 44.0125(1), (2).)

Source Law

Sec. 44.0125. PROHIBITED ACTS. It is an offense if:

(1) a licensed game breeder takes, traps, or captures or attempts to take or capture game animals from the wild;

(2) a licensed game breeder allows the hunting or killing of a game animal held in captivity under the provisions of this chapter; or

. . .

Revisor's Note

Section 44.0125, Parks and Wildlife Code, provides that it is an offense for a licensed game breeder to take certain actions. For clarity, the revised law restates the provision as a prohibition on taking those actions but omits the portion of the provision creating an offense for the reason stated in the revisor's note to Section 5157.0418.

Revised Law

Sec. 5157.0420. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 44.016.)

Source Law

Sec. 44.016. PENALTIES. A person who violates a provision of this chapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUBCHAPTER E. COMMERCIAL GAME BIRD BREEDER'S LICENSE

Revised Law

Sec. 5157.0501. DEFINITIONS. In this subchapter:

(1) "Captivity" means, with respect to a game bird, the state of being kept in an enclosure or pen.

(2) "Game bird" has the meaning assigned by Section 5202.0101 and includes a migratory game bird.

(3) "Migratory game bird" has the meaning assigned by Section 5202.0401. (Parks & Wild. Code, Secs. 45.0001, 45.004(c).)

Source Law

Sec. 45.0001. DEFINITIONS. In this chapter:

(1) "Game bird" has the meaning assigned by Section 64.001 and includes "migratory game birds."

(2) "Migratory game bird" has the meaning assigned by Section 64.021.

[Sec. 45.004]

(c) "Captivity" means the keeping of game birds in an enclosure or pen.

Revisor's Note

Section 45.004(c), Parks and Wildlife Code, defines "captivity," but does not specify the provisions to which the definition applies, and the term is not used in Section 45.004 of that code. The term is used in Chapter 45, Parks and Wildlife Code, including Section 45.001, which establishes the conduct for which a commercial game bird breeder's license is required, and Sections 45.003(a) and (b), which establish the privileges to which each type of commercial game bird breeder's license holder is entitled. It is clear from the context that the definition of "captivity" is intended to apply to each use of the term in Chapter 45, and the revised law is drafted accordingly.

Revised Law

Sec. 5157.0502. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a person who holds a permit issued under Subchapter G, Chapter 5159. (Parks & Wild. Code, Sec. 45.009(b).)

Source Law

(b) This chapter does not apply to a person holding a permit under Section 43.022.

Revised Law

Sec. 5157.0503. COMMERCIAL GAME BIRD BREEDER'S LICENSE REQUIRED. A person may not possess game birds in captivity for the purpose of propagation or sale or sell game bird eggs unless the person holds a commercial game bird breeder's license issued by the

department. (Parks & Wild. Code, Sec. 45.001.)

Source Law

> Sec. 45.001. LICENSE REQUIRED. No person may possess game birds in captivity for the purpose of propagation or sale or sell game bird eggs without first acquiring the proper license authorized to be issued under this chapter.

Revisor's Note

Section 45.001, Parks and Wildlife Code, refers to a "proper license authorized to be issued under this chapter." Section 45.003, Parks and Wildlife Code, refers to two types of "commercial game bird breeder's license." Throughout this subchapter, the revised law substitutes "commercial game bird breeder's license" for the quoted and similar language for clarity and consistency in terminology used in this subchapter.

Revised Law

Sec. 5157.0504. LICENSE TYPES AND PRIVILEGES. (a) A Class 1 commercial game bird breeder's license holder may possess in captivity more than 1,000 game birds.

(b) A Class 2 commercial game bird breeder's license holder may possess in captivity not more than 1,000 game birds during any calendar year.

(c) A Class 1 or Class 2 commercial game bird breeder's license holder may sell any number of game bird eggs in this state. (Parks & Wild. Code, Secs. 45.003(a) (part), (b) (part), (c).)

Source Law

> Sec. 45.003. TYPES OF LICENSES; FEES. (a) A class 1 commercial game bird breeder's license entitles the holder to possess in captivity more than 1,000 game birds. . . .
>
> (b) A class 2 commercial game bird breeder's license entitles the holder to possess in captivity not more than 1,000 game birds during any calendar year. . . .
>
> (c) A class 1 or class 2 commercial game bird breeder's license is valid for selling game bird eggs in this state, regardless of the number of eggs sold.

Revised Law

Sec. 5157.0505. LICENSE FEES. (a) The fee for a Class 1 commercial game bird breeder's license is $100 or a greater amount

set by the commission.

(b) The fee for a Class 2 commercial game bird breeder's license is $10 or a greater amount set by the commission. (Parks & Wild. Code, Secs. 45.003(a) (part), (b) (part).)

Source Law

> (a) . . . The fee for a class 1 license is $100 or an amount set by the commission, whichever amount is more.
>
> (b) . . . The fee for a class 2 license is $10 or an amount set by the commission, whichever amount is more.

Revised Law

Sec. 5157.0506. LICENSE ISSUANCE. (a) The department:

(1) shall issue a commercial game bird breeder's license on a form the department prescribes; and

(2) may designate agents for the issuance of commercial game bird breeder's licenses.

(b) Each commercial game bird breeder's license must be numbered. (Parks & Wild. Code, Secs. 45.002(a), (b).)

Source Law

> Sec. 45.002. FORM OF LICENSE; PERIOD OF VALIDITY. (a) The department shall issue the licenses authorized by this chapter on a form provided by the department and may designate agents for their issuance.
>
> (b) Each license shall be numbered.

Revised Law

Sec. 5157.0507. LICENSE TERM. A commercial game bird breeder's license is valid for the yearly period that:

(1) begins on September 1 or another date set by the commission; and

(2) extends through August 31 of the next year or another date set by the commission. (Parks & Wild. Code, Sec. 45.002(c) (part).)

Source Law

> (c) A license is valid for a yearly period. 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. . . .

Revised Law

Sec. 5157.0508. LICENSE ISSUED FOR TRANSITION PERIOD. The commission by rule may:

(1) provide for a commercial game bird breeder's license term for a transition period that is less than or exceeds one year; and

(2) set the fee for a commercial game bird breeder's license issued during a transition period at an amount less than the amount prescribed by this subchapter for that license. (Parks & Wild. Code, Sec. 45.002(c) (part).)

Source Law

> (c) . . . The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this section and provide for a license term for a transition period that is shorter or longer than a year.

Revised Law

Sec. 5157.0509. SERIAL NUMBER. (a) The department shall issue a serial number to each commercial game bird breeder's license holder.

(b) A serial number issued under Subsection (a) remains the license holder's serial number for as long as the license holder holds a commercial game bird breeder's license. (Parks & Wild. Code, Sec. 45.005(b).)

Source Law

> (b) The department shall issue to each holder of a commercial game bird breeder's license a serial number which shall remain the number of the person holding the license as long as he continues to hold a license.

Revised Law

Sec. 5157.0510. RECORD; REPORT. (a) A commercial game bird breeder's license holder shall maintain a record of the numbers of game birds and game bird eggs the holder acquires, propagates, sells, and disposes of in any other manner. The record must:

(1) be on a form the department prescribes; and

(2) contain any other information the department

requires.

(b) During August, or another month set by the commission, of each year, but before August 31 or another date set by the commission, a commercial game bird breeder's license holder shall send to the department a report that:

(1) shows the number of game birds in the license holder's possession during the reporting period; and

(2) accounts for the acquisition and disposition of each game bird or game bird egg purchased or sold.

(c) The reporting period under Subsection (b) is from August 1 of the preceding year through July 31 of the current year or another yearly period established by the commission. (Parks & Wild. Code, Secs. 45.008(a), (b).)

Source Law

> Sec. 45.008. RECORDS; REPORTS. (a) Each commercial game bird breeder shall maintain records showing the numbers of game birds and game bird eggs acquired, propagated, sold, and disposed of in any other manner. The records must be on forms provided by the department and must contain any other information required by the department.
>
> (b) During August of each year or another month set by the commission, but before August 31 or another date established by the commission, a commercial game bird breeder shall send to the department a report showing the total number of game birds in the possession of the breeder during the reporting period and accounting for the acquisition and disposition of each game bird or game bird egg purchased or sold. The reporting period is from August 1 of the preceding year through July 31 of the current year or another yearly period established by the commission.

Revisor's Note

(1) Section 45.008(b), Parks and Wildlife Code, refers to the "total number of game birds" possessed by a commercial game bird breeder's license holder. The revised law omits "total" because, in context, "total" is included in the meaning of "number of game birds."

(2) Section 45.008(c), Parks and Wildlife Code, provides that the failure to take certain actions required under Section 45.008(a) or (b) of that code is a violation of Chapter 45 of that code. The revised

law omits that provision as redundant because Sections 45.008(a) and (b), revised in pertinent part as Subsections (a) and (b) of this section, impose a duty on a commercial game bird breeder to take the actions required by those provisions and the failure to comply with those duties is an offense under Section 45.012, revised as Section 5157.0518, and the general offense under that section applies on its own terms. The omitted law reads:

> (c) The failure to keep the records required by Subsection (a) of this section or to make the report as required by Subsection (b) of this section is a violation of this chapter.

Revised Law

Sec. 5157.0511. SALE OR PURCHASE OF LIVE GAME BIRD OR EGG. (a) A commercial game bird breeder's license holder may sell a live game bird only if the bird is in a healthy condition.

(b) A person may purchase a live game bird or game bird egg only from a commercial game bird breeder's license holder. This subsection does not prohibit the purchase of a live game bird or game bird egg from a lawful source outside this state.

(c) A commercial game bird breeder's license holder may not sell a live game bird or game bird egg without issuing and delivering to the purchaser a written document showing:

(1) the license holder's name and the serial number issued to the license holder under Section 5157.0509;

(2) the purchaser's name and address; and

(3) the kind or species and number of game birds or game bird eggs sold. (Parks & Wild. Code, Secs. 45.005(a), 45.007(a), (b).)

Source Law

> Sec. 45.005. RECORDS OF LIVE BIRD AND EGG SALES. (a) No holder of a commercial game bird breeder's license may sell a live game bird or game bird egg without issuing a written document showing the name and serial number of the game bird breeder, the name and address of the purchaser, and the kind or species and number of game birds or game bird eggs sold. The

document shall be delivered to the purchaser.

Sec. 45.007. PROHIBITED ACTS. (a) No holder of a game bird breeder's license may sell a live game bird unless it is in a healthy condition.

(b) No person may purchase a live game bird or game bird egg except from a holder of a game bird breeder's license; however, this subsection does not prohibit the purchase of live game birds or game bird eggs from a lawful source outside the state.

Revisor's Note

Section 45.005(a), Parks and Wildlife Code, refers to the serial number of a commercial game bird breeder's license holder. It is clear from the context that the serial number referred to is the serial number issued to the license holder under Section 45.005(b), Parks and Wildlife Code, revised as Section 5157.0509, and the revised law adds a reference to that section for clarity and the convenience of the reader.

Revised Law

Sec. 5157.0512. SALE OF GAME BIRD CARCASS OR PART. (a) The carcass of a pen-raised game bird may be offered for sale only if the bird is killed in a manner other than by shooting.

(b) A person may not sell, offer for sale, or purchase the carcass or any part of a dead pen-raised game bird unless the carcass or part is:

(1) clearly marked by the stamp authorized by Subsection (c); or

(2) delivered to the purchaser and accompanied by a document on which is printed or written the name, street address, and serial number issued under Section 5157.0509, if applicable, of a commercial game bird breeder's license holder.

(c) A commercial game bird breeder's license holder who offers for sale the carcass of a pen-raised game bird may acquire a rubber stamp for use in displaying the license holder's serial number issued under Section 5157.0509. (Parks & Wild. Code, Secs. 45.006, 45.007(c).)

Source Law

Sec. 45.006. SALES OF GAME BIRD CARCASSES OR

PARTS OF A GAME BIRD. (a) No person may sell, offer for sale, or purchase the carcass or any part of a dead pen-raised game bird unless:

(1) the carcass or part is clearly stamped and marked by the stamp authorized by Subsection (b); or

(2) the carcass or part is delivered to the purchaser and is accompanied by a document on which is printed or written the name, street address, and identification number, if applicable, of the game bird breeder.

(b) Each holder of a license required by this chapter who offers for sale the carcass of a pen-raised game bird may acquire a rubber stamp which, when used, shows the identification number of the holder of the license.

[Sec. 45.007]

(c) The carcass of a pen-raised game bird offered for sale must be killed other than by shooting.

Revisor's Note

Sections 45.006(a) and (b), Parks and Wildlife Code, refer to a commercial game bird breeder's license holder's "identification number." For clarity and consistency in terminology used in this subchapter, the revised law substitutes "serial number issued under Section 5157.0509" for "identification number" because it is clear from the context that the number referred to is the serial number issued to the license holder under Section 45.005(b), Parks and Wildlife Code, revised as Section 5157.0509.

Revised Law

Sec. 5157.0513. PROCESSING OR SALE OF GAME BIRD FOR CONSUMPTION. (a) A commercial game bird breeder's license holder may process game birds for personal consumption at any time.

(b) A person who owns or operates a business where food is sold for consumption, including a restaurant, hotel, boarding house, or club, may sell game birds obtained from a legal source for consumption on the business's premises. (Parks & Wild. Code, Secs. 45.009(a), (c).)

Source Law

Sec. 45.009. EXCEPTIONS. (a) A commercial game bird breeder may process game birds for personal consumption at any time.

(c) Any person owning or operating a business

where food is sold for consumption, including a restaurant, hotel, boarding house, or club, may sell game birds obtained from a legal source for consumption on the premises of the business.

Revised Law

Sec. 5157.0514. RECEIPT FOR SOURCE OF GAME BIRD. A person who is not required to hold a commercial game bird breeder's license and who is in possession of a live game bird, game bird egg, or part of a dead game bird shall, on the request of a game warden commissioned by the department, provide to the warden a receipt showing:

(1) the person's name and street address;

(2) the name and street address of the source that provided the live game bird, game bird egg, or part of a dead game bird;

(3) the date of sale; and

(4) the kind or species and number of live game birds, game bird eggs, or parts of dead game birds acquired. (Parks & Wild. Code, Sec. 45.0061.)

Source Law

Sec. 45.0061. SOURCE OF GAME BIRDS. A person who is not required to possess a commercial game bird breeder's license and who is in possession of a live game bird, game bird egg, or part of a dead game bird shall, on the request of a game warden commissioned by the department, furnish to the warden a receipt showing the name and street address of the person and the name and street address of the source from which any live game bird, game bird egg, or part of a dead game bird in the possession of the person was derived. The receipt must also show the date of sale and the kind or species and number of live game birds, game bird eggs, or parts of dead game birds acquired. The failure or refusal to comply with this section is a violation of this chapter.

Revisor's Note

Section 45.0061, Parks and Wildlife Code, imposes a duty on certain persons to provide to a game warden on request a receipt showing certain information, and provides that the failure or refusal to comply with that section is a violation of Chapter 45 of that code. The revised law omits the reference to failure or refusal to comply with that duty as being a violation

of the chapter as redundant because any violation of Section 45.0061 is an offense under Section 45.012, revised as Section 5157.0518, and the general offense under that section applies on its own terms.

Revised Law

Sec. 5157.0515. ENCLOSURE SIZE. A commercial game bird breeder's license holder may not retain:

(1) a game bird other than a migratory bird or waterfowl in an enclosure larger than 40 acres; or

(2) a migratory bird or waterfowl in an enclosure larger than 320 acres. (Parks & Wild. Code, Secs. 45.004(a), (b).)

Source Law

> Sec. 45.004. SIZE OF ENCLOSURES. (a) No holder of a license under this chapter may retain game birds, other than a migratory bird or waterfowl, in an enclosure larger than 40 acres.
>
> (b) No holder of a license under this chapter may retain a migratory bird or waterfowl in an enclosure larger than 320 acres.

Revised Law

Sec. 5157.0516. INSPECTION BY DEPARTMENT EMPLOYEE. An authorized department employee may inspect the facilities and enclosures of a commercial game bird breeder's license holder at any time during normal business hours without a warrant. (Parks & Wild. Code, Sec. 45.010.)

Source Law

> Sec. 45.010. INSPECTIONS. An authorized employee of the department may inspect the facilities and enclosures of a person licensed under this chapter at any time during normal business hours without a warrant.

Revised Law

Sec. 5157.0517. CERTAIN ACTS NOT AUTHORIZED. (a) This subchapter does not authorize an act prohibited by federal law without a permit issued by the United States.

(b) The possession of a permit issued by the United States does not authorize an act prohibited by this subchapter unless expressly provided by federal law. (Parks & Wild. Code, Sec. 45.011.)

Source Law

Sec. 45.011. PERMITS REQUIRED BY THE UNITED STATES. This chapter does not authorize any act prohibited by federal law without a permit issued by the United States, nor does the possession of a permit issued by the United States authorize any act prohibited by this chapter unless expressly provided by federal law.

Revised Law

Sec. 5157.0518. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 45.012.)

Source Law

Sec. 45.012. PENALTY. A person who violates a provision of this chapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

CHAPTER 5158. COMMERCIAL FISHING LICENSES

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5158.0101. DEFINITIONS. In this chapter:

(1) "Aquatic animal product" means any live or dead, uncooked, fresh, or frozen aquatic animal life.

(2) "Bait dealer" means:

(A) a person who catches and sells aquatic animal products for bait; or

(B) a place of business where aquatic animal products are sold, offered for sale, handled, or transported for sale for bait.

(3) "Commercial aquaculture facility" has the meaning assigned by Section 134.001, Agriculture Code.

(4) "Commercial finfish fisherman" means a person who catches finfish from tidal water for compensation or for sale, barter, exchange, or another commercial purpose. The term does not include a person who:

(A) is in a vessel licensed as a menhaden boat under Subchapter F and who takes menhaden;

(B) holds an individual bait dealer's license

issued under Subchapter L; or

(C) takes minnows for bait only.

(5) "Commercial fisherman" means a person who for compensation or for sale, barter, or exchange or another commercial purpose:

(A) catches aquatic animal products from the water of this state, other than finfish from tidal water; or

(B) unloads in this state aquatic animal products that:

(i) were taken from water outside this state; and

(ii) have not been previously unloaded outside this state.

(6) "Finfish" means a living fish that has:

(A) a cartilaginous skeleton as a member of the class Chondrichthyes; or

(B) a bony skeleton as a member of the class Osteichthyes.

(7) "Menhaden fish plant" means a fixed installation on land that is designed, equipped, and used to process fish and fish by-products by applying pressure, heat, or chemicals to raw fish to convert the fish into fish oil, fish solubles, fish scraps, or other products.

(8) "Permanent structure" means a building designed, planned, and constructed to remain at one location.

(9) "Place of business" means a permanent structure on land, or a motor vehicle required to be registered under Section 502.040, Transportation Code, where aquatic animal products or orders for aquatic animal products are received or where aquatic animal products are sold or purchased. The term does not include a boat or any type of floating device, a public cold storage vault, the portion of a structure that is used as a residence, or a vehicle from which orders are not taken or shipments or deliveries are not made other than to a license holder's place of business in this

state.

(10) "Retail fish dealer" means a person who operates a place of business for selling or offering for sale to a consumer aquatic animal products, other than aquatic animal products that are sold by restaurants for and ready for immediate consumption in individual portion servings and that are subject to the limited sales or use tax. For purposes of this subdivision, "consumer" does not include a wholesale fish dealer, a hotel, a restaurant, a cafe, or another retail fish dealer.

(11) "Tidal water" means the salt water of this state, including the portion of the state's territorial water in the Gulf of Mexico within three marine leagues from shore.

(12) "Wholesale fish dealer" means a person who operates a place of business for selling, offering for sale, canning, preserving, processing, or handling for shipment or sale aquatic animal products to retail fish dealers, hotels, restaurants, cafes, consumers, or other wholesale fish dealers. The term does not include the holder of a bait shrimp dealer's license. (Parks & Wild. Code, Secs. 47.001(1), (2), (3), (4), (5), (7), (9), (10), (14), (15), (16), 47.009(c) (part), 47.0091 (part), 47.011(c) (part), 47.0111 (part), 47.014(c) (part).)

Source Law

Sec. 47.001. DEFINITIONS. In this chapter:

(1) "Commercial fisherman" means a person who for pay or for the purpose of sale, barter, or exchange or any other commercial purpose:

(A) catches aquatic products from the water of this state except finfish from the tidal waters of this state; or

(B) unloads in this state aquatic products that:

(i) were taken from water outside this state; and

(ii) have not been previously unloaded in another state or a foreign country.

(2) "Commercial finfish fisherman" means a person who catches finfish from the tidal waters of this state for pay or for the purpose of sale, barter, exchange, or any other commercial purpose. The term does not include a person who:

(A) holds an individual bait dealer's license issued under this chapter;

(B) is in a vessel licensed under this chapter as a menhaden boat and who takes menhaden; or

(C) takes minnows for bait only.

(3) "Wholesale fish dealer" means a person who operates a place of business for selling, offering for sale, canning, preserving, processing, or handling for shipments or sale aquatic products to retail fish dealers, hotels, restaurants, cafes, consumers, or other wholesale fish dealers. The term does not include the holder of a bait-shrimp dealer's license.

(4) "Retail fish dealer" means a person who operates a place of business for selling or offering for sale to a consumer aquatic products, other than aquatic products that are sold by restaurants for and ready for immediate consumption in individual portion servings and that are subject to the limited sales or use tax. For purposes of this subsection, "consumer" does not include a wholesale fish dealer or a hotel, restaurant, cafe, or other retail fish dealer.

(5) "Bait dealer" means a person who catches and sells minnows, fish, shrimp, or other aquatic products for bait or a place of business where minnows, fish, shrimp, or other aquatic products are sold, offered for sale, handled, or transported for sale for bait.

(7) "Tidal water" means all the salt water of this state, including that portion of the state's territorial water in the Gulf of Mexico within three marine leagues from shore.

(9) "Place of business" means a permanent structure on land or a motor vehicle required to be registered under Section 502.040, Transportation Code, where aquatic products or orders for aquatic products are received or where aquatic products are sold or purchased but does not include a boat or any type of floating device, a public cold storage vault, the portion of a structure that is used as a residence, or a vehicle from which no orders are taken or no shipments or deliveries are made other than to the place of business of a licensee in this state.

(10) "Menhaden fish plant" means a fixed installation on land designed, equipped, and used to process fish and the by-products of fish by the application of pressure, heat, or chemicals or a combination of pressure, heat, and chemicals to raw fish to convert the raw fish into fish oil, fish solubles, fish scraps, or other products.

(14) "Finfish" means those living natural resources having either cartilaginous or bony skeletons (Chondrichthyes and Osteichthyes).

(15) "Permanent structure" means a building designed, planned, and constructed so as to remain at one location.

(16) "Aquatic product" means any live or dead, uncooked, fresh or frozen aquatic animal life.

[Sec. 47.009]

(c) . . . commercial aquaculture facility as defined by Section 134.001, Agriculture Code, ...

Sec. 47.0091. . . . commercial aquaculture facility as defined by Section 134.001, Agriculture Code, ...

[Sec. 47.011]

(c) . . . commercial aquaculture facility as

defined by Section 134.001, Agriculture Code, ...

Sec. 47.0111. . . . commercial aquaculture facility as defined by Section 134.001, Agriculture Code, ...

[Sec. 47.014]

(c) . . . commercial aquaculture facility as defined by Section 134.001, Agriculture Code, ...

Revisor's Note

(1) Sections 47.001(1) and (2), Parks and Wildlife Code, refer to "the tidal waters of this state." The revised law substitutes "tidal water" for the quoted language because "tidal water" is the defined term for this chapter and includes the concept that the water described by that definition is located within the jurisdiction of this state.

(2) Section 47.001(2), Parks and Wildlife Code, refers to an individual bait dealer's license issued under "this chapter," and to a menhaden boat licensed under "this chapter," both meaning Chapter 47 of that code. The pertinent parts of Chapter 47 relating to the issuance of an individual bait dealer's license are revised in Subchapter L of this chapter, and the pertinent parts of that chapter relating to the issuance of a menhaden boat license are revised in Subchapter F of this chapter. Throughout this chapter, the revised law is drafted accordingly.

(3) Section 47.001(8), Parks and Wildlife Code, defines "nontidal water" for purposes of Chapter 47 of that code. The revised law omits that definition because "nontidal water" is not used in that chapter. The omitted law reads:

> (8) "Nontidal water" means all the water of this state excluding tidal water.

(4) Section 47.001(9), Parks and Wildlife Code, refers to a "licensee." Throughout this chapter, the revised law substitutes "license holder" for

"licensee" because, in this context, the terms are synonymous and "license holder" is more commonly used.

(5) Section 47.001(10), Parks and Wildlife Code, refers to the processing of fish "by the application of pressure, heat, or chemicals or a combination of pressure, heat, and chemicals" to raw fish. The revised law omits "or a combination of pressure, heat, and chemicals" as unnecessary because no reading of "by the application of pressure, heat, or chemicals" precludes a combination of those methods.

(6) Section 47.001(11), Parks and Wildlife Code, defines "red drum" for purposes of Chapter 47 of that code. The revised law omits that definition because the term is not used in that chapter. The omitted law reads:

> (11) "Red drum" means the species Sciaenops ocellata, commonly called "redfish."

(7) Section 47.001(14), Parks and Wildlife Code, defines "finfish" as a living "natural resource" that has either a cartilaginous or bony skeleton and is accordingly a member of the class Chondrichthyes or Osteichthyes. For clarity, the revised law substitutes "fish" for "natural resource" because all members of those classes are fish.

(8) Section 47.001(16), Parks and Wildlife Code, defines an "aquatic product" as any live or dead, uncooked, fresh or frozen aquatic animal life. For clarity, throughout this chapter, the revised law substitutes "aquatic animal product" for "aquatic product."

(9) Sections 47.009(c), 47.0091, 47.011(c), 47.0111, and 47.014(c), Parks and Wildlife Code, refer to a commercial aquaculture facility "as defined by Section 134.001, Agriculture Code." Although the term

"commercial aquaculture facility" is used without definition in Sections 47.010 and 47.013, Parks and Wildlife Code, the revised law adds a definition of "commercial aquaculture facility" and applies that definition to the entire chapter because it is clear from the context that the omission of the definition in Sections 47.010 and 47.013 is a drafting error and that the commercial aquaculture facility referred to in those sections is a commercial aquaculture facility as defined by Section 134.001, Agriculture Code.

Revised Law

Sec. 5158.0102. DETERMINATION OF RESIDENCY STATUS. (a) For purposes of this chapter, a person is considered a resident if the person is an individual who has resided continuously in this state for more than six months immediately before applying to the department for a license required by this chapter.

(b) For purposes of this chapter, a person is considered a nonresident if the person is an individual not described by Subsection (a). (Parks & Wild. Code, Secs. 47.001(12), (13).)

Source Law

Sec. 47.001. DEFINITIONS. In this chapter:

(12) "Resident" means an individual who has resided continuously in this state for more than six months immediately before applying for a license required by this chapter from the department.

(13) "Nonresident" means an individual who is not a resident.

SUBCHAPTER B. GENERAL LICENSE PROVISIONS

Revised Law

Sec. 5158.0201. LICENSE TERMS. (a) A license issued under this chapter is valid only during the yearly period for which the license is issued without regard to the date the license is acquired.

(b) Each yearly period for a license issued under this chapter:

(1) begins on September 1 or another date set by the

commission; and

(2) extends through August 31 of the next year or another date set by the commission. (Parks & Wild. Code, Sec. 47.031(a) (part).)

Source Law

> Sec. 47.031. EXPIRATION OF LICENSES. (a) All licenses and permits issued under the authority of Chapter 47 of this code are valid only during the yearly period for which they are issued without regard to the date on which the licenses are acquired. 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. . . .

Revisor's Note

Section 47.031, Parks and Wildlife Code, refers to "permits" issued under Chapter 47 of that code. Throughout this chapter, the revised law omits references to a "permit" or "permits" under Chapter 47 because the provisions of that chapter authorize only the issuance of licenses and do not authorize the issuance of any permits.

Revised Law

Sec. 5158.0202. LICENSE ISSUED FOR TRANSITION PERIOD. The commission by rule may:

(1) provide for a license term for a transition period that is less than or exceeds one year; and

(2) set the fee for a license issued during a transition period at an amount less than the amount prescribed by this chapter for that license. (Parks & Wild. Code, Sec. 47.031(a) (part).)

Source Law

> (a) . . . . The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

Revised Law

Sec. 5158.0203. LICENSE INELIGIBILITY FOR CERTAIN INDEBTEDNESS. The department may not issue a license under this

chapter to a person who owes this state an amount for a license or fee under a final court judgment until the indebtedness is satisfied by payment to the department. (Parks & Wild. Code, Sec. 47.032.)

Source Law

> Sec. 47.032. REFUSAL OF LICENSE. No person owing the state any amount for a license or fee under a final judgment of a court may receive a license under this chapter until the indebtedness is satisfied by payment to the department.

Revised Law

Sec. 5158.0204. LICENSE TRANSFERABILITY. (a) Except as otherwise provided by this section or Section 5158.0409, a license issued under this chapter may not be transferred to another person.

(b) A license issued under this chapter in the name of a business remains valid for the business location specified on the license if a change of ownership or business name occurs.

(c) A menhaden fish plant license issued under Subchapter G, a wholesale fish dealer's license issued under Subchapter H, a retail fish dealer's license issued under Subchapter J, or a bait dealer's license issued under Subchapter L may be transferred to a new address if the business moves to another location.

(d) A commercial fishing boat license issued under Subchapter E, a wholesale fish dealer's truck license issued under Subchapter I, or a retail dealer's truck license issued under Subchapter K may be transferred to:

(1) another vehicle or vessel; or

(2) a new owner of the same vehicle or vessel.

(e) The commission by regulation may prescribe:

(1) requirements necessary to clarify a license transfer procedure; and

(2) a form to be used and fee to be charged for transfer of a license issued under this chapter. (Parks & Wild. Code, Sec. 47.031(b) (part).)

Source Law

(b) All licenses and permits issued under the

authority of Chapter 47 may not be transferred to another person except that a license issued in the name of a business shall remain valid for the business location specified on the license or permit if a change of ownership and/or business name occurs. A license issued under the authority of Section 47.009, 47.011, 47.014, or 47.016 may be transferred to a new address if the business moves to another location. A license issued under the authority of Section 47.007, 47.010, or 47.013 may be transferred to another vehicle or vessel or to a new owner of the same vehicle or vessel. The commission, by regulation, may prescribe requirements necessary to clarify license and permit transfer procedures and may prescribe, by regulation, forms to be used and fees to be charged for transfer of licenses and permits in this chapter and . . . .

Revisor's Note

Section 47.031(b), Parks and Wildlife Code, provides a general prohibition on transferring a license issued under Chapter 47 of that code. For the convenience of the reader, the revised law adds "[e]xcept as otherwise provided by this section or Section 5158.0409," to indicate to the reader that exceptions to the general prohibition are included in those sections.

Revised Law

Sec. 5158.0205. DUPLICATE OR REPLACEMENT LICENSE OR LICENSE PLATE. The commission by regulation may prescribe a form to be used and fee to be charged for a duplicate license plate or duplicate or replacement license under this chapter. (Parks & Wild. Code, Sec. 47.031(b) (part).)

Source Law

(b) . . . The commission, . . . may prescribe, by regulation, forms to be used and fees to be charged . . . for duplicate license plates and duplicate or replacement licenses and permits.

Revised Law

Sec. 5158.0206. LICENSE DISPLAY IN PLACE OF BUSINESS. (a) Except as provided by Subsection (b), the holder of a license issued under this chapter shall publicly display the license at all times in the license holder's place of business.

(b) This section does not apply to:

(1) a commercial finfish fisherman's license;

(2) a commercial fishing boat license;

(3) a menhaden boat license; or

(4) a menhaden fish plant license. (Parks & Wild. Code, Sec. 47.033 (part).)

Source Law

> Sec. 47.033. DISPLAY OF LICENSE. All licenses, except a tidal water commercial fisherman's license, commercial fishing boat license, menhaden boat license, and menhaden fish plant license, must be publicly displayed at all times in the place of business of the licensee. . . .

Revisor's Note

Section 47.033, Parks and Wildlife Code, refers to a "tidal water commercial fisherman's license." The revised law substitutes "commercial finfish fisherman's license" for the quoted language because Chapter 623 (S.B. 580), Acts of the 66th Legislature, Regular Session, 1979, transferred the authorizations of the tidal water commercial fisherman's license to the commercial finfish fisherman's license and the reference to "tidal water commercial fisherman's license" was retained in error.

Revised Law

Sec. 5158.0207. LICENSE DISPLAY IN CERTAIN VEHICLES. A license holder who is required to hold a license for a vehicle transporting aquatic animal products for sale shall display the license in the vehicle. (Parks & Wild. Code, Sec. 47.033 (part).)

Source Law

> Sec. 47.033. . . . Licenses required for vehicles transporting aquatic products for sale must be displayed in the vehicle.

Revised Law

Sec. 5158.0208. EXHIBITING LICENSE. A person engaging in an act for which a license is required by this chapter shall, on request, show the required license to a peace officer or an officer of the court. (Parks & Wild. Code, Sec. 47.040.)

Source Law

Sec. 47.040. REFUSAL TO SHOW LICENSE. A person who is engaging in any act for which a license or permit is required by this chapter and who fails or refuses upon request to show the required license or permit to a game warden, other peace officer, or officer of the court commits an offense.

Revisor's Note

Section 47.040, Parks and Wildlife Code, provides that a person engaging in an act for which a license is required by Chapter 47 of that code who fails to show the license to a "game warden, other peace officer, or officer of the court" commits an offense. For clarity, the revised law restates the provision as an affirmative duty to show the license rather than a prohibition on failing to show the license but omits the portion of the provision creating an offense because it duplicates in substance Section 47.051, Parks and Wildlife Code, revised in this chapter as Section 5158.9901, which creates an offense for violating a provision of Chapter 47. Additionally, the revised law omits "game warden" for the reason stated in the revisor's note to Section 5103.0407.

Revised Law

Sec. 5158.0209. DISPOSITION OF MONEY FROM LICENSES. Money received for a license issued under this chapter, less allowable deductions, must be sent to the department not later than the 10th day of the month following receipt. (Parks & Wild. Code, Sec. 47.055 (part).)

Source Law

Sec. 47.055. DISPOSITION OF FUNDS. Money received for licenses issued under this chapter or . . . , less allowable deductions, shall be sent to the department by the 10th day of the month following receipt.

SUBCHAPTER C. GENERAL COMMERCIAL FISHERMAN'S LICENSE

Revised Law

Sec. 5158.0301. GENERAL COMMERCIAL FISHERMAN'S LICENSE

REQUIRED. (a) Except as provided by Section 5158.0302 and subject to Subsection (b), a person may not engage in business as a commercial fisherman unless the person holds a general commercial fisherman's license.

(b) A person who takes or assists in taking oysters on a vessel licensed as a commercial oyster boat under Chapter 5304 is required to hold a general commercial fisherman's license. This subsection does not apply to a commercial oyster boat captain's license holder. (Parks & Wild. Code, Secs. 47.002(a), (f).)

Source Law

> Sec. 47.002. GENERAL COMMERCIAL FISHERMAN'S LICENSE. (a) No person may engage in business as a commercial fisherman unless he has obtained a general commercial fisherman's license.
>
> (f) A person who takes or assists in taking oysters on a vessel licensed as a commercial oyster boat under Chapter 76 is required to obtain or possess a general commercial fisherman's license. This subsection does not apply to the holder of a commercial oyster boat captain's license.

Revisor's Note

(1) Section 47.002(a), Parks and Wildlife Code, provides that a person may not engage in business as a commercial fisherman unless the person holds a general commercial fisherman's license. For the convenience of the reader, the revised law adds "[e]xcept as provided by Section 5158.0302 and subject to Subsection (b)," to indicate to the reader that exceptions to and a limitation on the requirement to hold a general commercial fisherman's license are included in those provisions.

(2) Section 47.002(f), Parks and Wildlife Code, refers to a vessel licensed as a commercial oyster boat under Chapter 76 of that code. The pertinent parts of Chapter 76 relating to the licensing of commercial oyster boats are revised in Chapter 5304 of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 5158.0302. EXEMPTIONS. A person is exempt from the requirement to hold a general commercial fisherman's license under Section 5158.0301 if the person:

(1) engages in commercial finfish fishing and holds a commercial finfish fisherman's license issued under Subchapter D in the person's immediate possession;

(2) takes menhaden on a vessel licensed as a menhaden boat under Subchapter F;

(3) catches bait only and holds a bait dealer's license issued under Subchapter L;

(4) catches or assists in catching shrimp on a vessel licensed as a commercial shrimp boat under Chapter 5251, regardless of whether aquatic life other than shrimp is caught, provided the catching of the aquatic life is incidental to lawful shrimping; or

(5) engages in or assists in commercial crab fishing under Chapter 5253 and holds a license for that activity. (Parks & Wild. Code, Secs. 47.002(d), (e), (g), (h) (part), (i).)

Source Law

> (d) A person who is in a vessel licensed under this chapter as a menhaden boat and who takes menhaden is not required to obtain or possess a general commercial fisherman's license.
>
> (e) A person who catches or assists in catching shrimp on a vessel licensed as a commercial shrimp boat under Chapter 77 is not required to obtain or possess a general commercial fisherman's license. The exemption provided by this section applies even though aquatic life other than shrimp are caught if that catching is incidental to lawful shrimping.
>
> (g) A person who is licensed as a bait dealer under this chapter is not required to obtain or possess a general commercial fisherman's license if the person is catching bait only.
>
> (h) A person who engages in or assists in commercial crab fishing under Subchapter B, Chapter 78, and who holds a license for that activity is not required to obtain or possess a general commercial fisherman's license or . . . .
>
> (i) A person who engages in commercial finfish fishing under Subchapter D and who holds a commercial finfish fisherman's license issued under Subchapter D in their immediate possession is not required to obtain or possess a general commercial fisherman's license.

Revised Law

Sec. 5158.0303. CERTAIN NONRESIDENTS INELIGIBLE FOR LICENSE. The department may not issue, and a nonresident may not hold, a nonresident general commercial fisherman's license if the nonresident resides in a state that denies the privilege of commercial fishing in that state to a resident of this state because of residency status. (Parks & Wild. Code, Sec. 47.002(c) (part).)

Source Law

> (c) . . . A nonresident who is residing in a state that denies the privilege of commercial fishing in that state to a Texas resident because of residency status is not eligible for a nonresident general commercial fisherman's license.

Revised Law

Sec. 5158.0304. LICENSE FEES. (a) The fee for a resident general commercial fisherman's license is $15 or a greater amount set by the commission.

(b) The fee for a nonresident general commercial fisherman's license is $100 or a greater amount set by the commission. (Parks & Wild. Code, Secs. 47.002(b), (c) (part).)

Source Law

> (b) The license fee for a general commercial fisherman's license is $15 or an amount set by the commission, whichever amount is more.
>
> (c) The license fee for a nonresident general commercial fisherman's license is $100 or an amount set by the commission, whichever amount is more. . . .

Revisor's Note

Section 47.002(b), Parks and Wildlife Code, sets the fee for a "general commercial fisherman's license," and Section 47.002(c) of that code sets the fee for a "nonresident general commercial fisherman's license." For clarity, the revised law adds "resident" to the reference to "general commercial fisherman's license" in Section 47.002(b) because it is clear from the context that the license referenced in that provision is a license issued to a resident of this state.

SUBCHAPTER D. COMMERCIAL FINFISH FISHERMAN'S LICENSE

Revised Law

Sec. 5158.0401. DEFINITIONS. In this subchapter:

(1) "Finfish license management program" means the finfish license management program implemented by the department under Section 5158.0415.

(2) "Flagrant offense" includes:

(A) theft of a trotline, finfish, or any other fishing gear or product associated with this subchapter;

(B) exceeding daily bag and possession limits in violation of this code or a commission proclamation;

(C) exceeding a trotline length limit by a length greater than 10 percent in violation of this code or a commission proclamation;

(D) selling a crab in violation of this code;

(E) exceeding the number of trotlines a commercial finfish fisherman's license holder may use in violation of this code or a commission proclamation; or

(F) taking, attempting to take, or possessing fish caught in public waters of this state by any device, means, or method other than as authorized under this code or by a commission proclamation.

(3) "Review board" means the finfish license management review board established under Section 5158.0416. (Parks & Wild. Code, Sec. 47.080(e); New.)

Source Law

(e) For purposes of this section, a flagrant offense includes:

(1) theft of trotlines or finfish, or any other fishing gear or product associated with this subchapter;

(2) exceeding daily bag and possession limits in violation of this code or of a proclamation of the commission issued under this code;

(3) exceeding trotline length limits by a length greater than 10 percent in violation of this code or of a proclamation of the commission issued under this code;

(4) selling crabs in violation of this code;

(5) exceeding the number of trotlines the

holder of a commercial finfish fisherman's license may use in violation of this code or of a proclamation of the commission issued under this code; or

(6) taking, attempting to take, or possessing fish caught in public waters of this state by any device, means, or method other than as authorized under this code or by a proclamation of the commission issued under this code.

Revisor's Note

(1) Section 47.080(e), Parks and Wildlife Code, refers to a Parks and Wildlife Commission proclamation "issued under this code." Throughout this chapter, the revised law omits the quoted language when referring to a commission proclamation because a commission proclamation is necessarily issued under the Parks and Wildlife Code.

(2) The definitions of "finfish license management program" and "review board" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

Revised Law

Sec. 5158.0402. ADMINISTRATIVE PROCEDURES. The executive director shall establish administrative procedures to carry out the requirements of this subchapter. (Parks & Wild. Code, Sec. 47.084(a).)

Source Law

Sec. 47.084. PROGRAM ADMINISTRATION; RULES. (a) The executive director shall establish administrative procedures to carry out the requirements of this subchapter.

Revised Law

Sec. 5158.0403. PROCLAMATION PROCEDURES. Subchapter B, Chapter 5101, applies to the adoption of proclamations under this subchapter. (Parks & Wild. Code, Sec. 47.086.)

Source Law

Sec. 47.086. PROCLAMATION; PROCEDURES. Subchapter D, Chapter 61, and Sections 61.054 and 61.055 apply to the adoption of proclamations under this subchapter.

Revised Law

Sec. 5158.0404. LICENSE ESTABLISHED BY PROCLAMATION. The commission by proclamation shall establish a commercial finfish fisherman's license in accordance with this subchapter. (Parks & Wild. Code, Sec. 47.074(d).)

Source Law

(d) A proclamation issued under this section shall establish a commercial finfish fisherman's license in accordance with the provisions of this subchapter.

Revised Law

Sec. 5158.0405. COMMERCIAL FINFISH FISHERMAN'S LICENSE REQUIRED. (a) A person may not engage in business as a commercial finfish fisherman unless the person holds a commercial finfish fisherman's license.

(b) A person may not engage in commercial finfish fishing unless:

(1) the person has in the person's immediate possession:

(A) a commercial finfish fisherman's license issued to the person under this subchapter; or

(B) a general commercial fisherman's license issued to the person under Subchapter C, a commercial finfish fisherman's license issued to another person under this subchapter, and a copy of an affidavit that:

(i) authorizes the person to use commercial finfish fishing devices owned by the commercial finfish fisherman's license holder; and

(ii) contains the date, the original signature of the commercial finfish fisherman's license holder, and, if the department requires a license plate on the boat, the commercial finfish fisherman's license number that matches the commercial finfish fisherman's license plate number; or

(2) the person has in the person's immediate possession a commercial finfish fisherman's license issued under

this subchapter or a general commercial fisherman's license issued under Subchapter C, and another person has in that person's immediate possession the documentation described by Subdivision (1). (Parks & Wild. Code, Secs. 47.074(a), (b).)

Source Law

> Sec. 47.074. LICENSING. (a) No person may engage in business as a commercial finfish fisherman unless the person has obtained a commercial finfish fisherman's license.
>
> (b) No person may engage in commercial finfish fishing unless:
>
> (1) the person has in their immediate possession:
>
> (A) a commercial finfish fisherman's license issued to the person; or
>
> (B) a general commercial fisherman's license issued to the person, a commercial finfish fisherman's license issued to another person, and a copy of an affidavit that:
>
> (i) authorizes the person to use commercial finfish fishing devices owned by the person to whom the commercial finfish fisherman's license was issued; and
>
> (ii) contains the date, the original signature of the person to whom the commercial finfish fisherman's license was issued, and the commercial finfish fisherman's license number that matches the commercial finfish fisherman's license plate number on the boat, if the department requires a license plate; or
>
> (2) the person has in their immediate possession a commercial finfish fisherman's license or a general commercial fisherman's license, and another person has in their immediate possession the documentation described by Subdivision (1).

Revised Law

Sec. 5158.0406. LICENSE ELIGIBILITY. The department may issue a commercial finfish fisherman's license only to a person who documents in a manner acceptable to the department that the person held a commercial finfish fisherman's license during the period beginning after September 1, 1997, and extending through April 20, 1999. (Parks & Wild. Code, Sec. 47.074(c).)

Source Law

> (c) Beginning September 1, 2000, the department shall issue a commercial finfish fisherman's license only to a person who documents in a manner acceptable to the department that the person held a commercial finfish fisherman's license during the period after September 1, 1997, through April 20, 1999.

Revisor's Note

Section 47.074(c), Parks and Wildlife Code,

provides that "[b]eginning September 1, 2000," the Parks and Wildlife Department may issue a commercial finfish fisherman's license only to certain persons. The revised law omits the quoted language as unnecessary because that date has passed and the language does not add to the clear meaning of the law.

Revised Law

Sec. 5158.0407. LICENSE FEE. The fee for a commercial finfish fisherman's license is $300 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 47.075 (part).)

Source Law

> Sec. 47.075. LICENSE FEE. The fee for a commercial finfish fisherman's license issued under this subchapter is $300 or an amount set by the commission, whichever amount is more. . . .

Revisor's Note

Section 47.075, Parks and Wildlife Code, refers to a commercial finfish fisherman's license issued "under this subchapter." The revised law omits the quoted language because a commercial finfish fisherman's license is not issued under any other provision of the Parks and Wildlife Code or any other code.

Revised Law

Sec. 5158.0408. LICENSE RENEWAL. A person may not renew a commercial finfish fisherman's license unless the person held the license during the preceding license year. (Parks & Wild. Code, Sec. 47.076.)

Source Law

> Sec. 47.076. LICENSE RENEWAL. A person seeking to renew a license established by this subchapter must have held the license during the preceding license year.

Revised Law

Sec. 5158.0409. LICENSE TRANSFER. (a) The commission by proclamation shall provide that a commercial finfish fisherman's license may be transferred at any time.

(b) The commission by rule may set a fee for the transfer of a commercial finfish fisherman's license. The amount of the transfer fee may not exceed the amount of the license fee required by Section 5158.0407. (Parks & Wild. Code, Secs. 47.079(a), (c).)

Source Law

> Sec. 47.079. LICENSE TRANSFER. (a) The commission by rule may set a fee for the transfer of a license. The amount of the transfer fee may not exceed the amount of the license fee.
>
> (c) The commission by proclamation shall allow a license to be transferred at any time.

Revisor's Note

Section 47.079(a), Parks and Wildlife Code, provides that the amount of a fee for the transfer of a commercial finfish fisherman's license may not exceed the amount of the fee for the license. Section 47.075, Parks and Wildlife Code, revised in pertinent part as Section 5158.0407, prescribes the amount of the fee for a commercial finfish fisherman's license, and the revised law adds a reference to that section for the convenience of the reader.

Revised Law

Sec. 5158.0410. DESIGNATION OF INDIVIDUAL AS LICENSE HOLDER. A commercial finfish fisherman's license issued to a person other than an individual must designate an individual in whose name the license is issued. (Parks & Wild. Code, Sec. 47.077(b).)

Source Law

> (b) A license issued to a person other than an individual must designate an individual in whose name the license is issued.

Revised Law

Sec. 5158.0411. LIMIT ON NUMBER OF LICENSES HELD OR CONTROLLED. A person may not hold or directly or indirectly control more than three commercial finfish fisherman's licenses. (Parks & Wild. Code, Sec. 47.077(a).)

Source Law

Sec. 47.077. LIMIT ON NUMBER OF LICENSES HELD. (a) A person may not hold or directly or indirectly control more than three licenses issued under this subchapter.

Revised Law

Sec. 5158.0412. TROTLINE LIMITS. (a) The commission by proclamation shall authorize a commercial finfish fisherman's license holder to use up to 20 trotlines not more than 600 feet long, or another number and length of trotline authorized by commission proclamation, to take or attempt to take finfish.

(b) A commercial finfish fisherman's license holder may not possess on board a vessel a number of trotlines that exceeds the number of trotlines prescribed by this code or by commission proclamation. (Parks & Wild. Code, Sec. 47.082.)

Source Law

Sec. 47.082. LINE LIMITS. (a) Not later than September 1, 2000, the commission by proclamation issued under this code shall authorize the holder of a commercial finfish fisherman's license to use up to 20 trotlines not more than 600 feet long, or another number and length of line authorized by commission proclamation, to take or attempt to take finfish.

(b) No holder of a commercial finfish fisherman's license may possess on board more than the number of lines prescribed by this code or by commission proclamation issued under this code.

Revisor's Note

Section 47.082(a), Parks and Wildlife Code, requires the Parks and Wildlife Commission to issue a proclamation "[n]ot later than September 1, 2000," authorizing a commercial finfish fisherman's license holder to use up to a certain number and length of trotlines. The revised law omits the quoted language as executed because the commission issued the proclamation required by Section 47.082(a) on July 7, 2000.

Revised Law

Sec. 5158.0413. CRAB TRAP LIMITS. (a) The commission by proclamation shall authorize a commercial finfish fisherman's

license holder to use up to 20 crab traps, or a number of crab traps authorized by commission proclamation, for use in commercial fishing for bait purposes only.

(b) This section does not authorize the taking of any product for compensation or for the purpose of sale, barter, or exchange. (Parks & Wild. Code, Sec. 47.083.)

Source Law

> Sec. 47.083. CRAB TRAPS. (a) Not later than September 1, 2000, the commission by proclamation issued under this code shall authorize the holder of a commercial finfish fisherman's license to use up to 20 crab traps, or a number of traps authorized by commission proclamation, for use in commercial fishing for bait purposes only.
>
> (b) This section does not authorize the taking of any product for pay or for the purpose of sale, barter, or exchange.

Revisor's Note

Section 47.083(a), Parks and Wildlife Code, requires the Parks and Wildlife Commission to issue a proclamation "[n]ot later than September 1, 2000," authorizing a commercial finfish fisherman's license holder to use up to a certain number of crab traps. The revised law omits the quoted language as executed because the commission issued the proclamation required by Section 47.083(a) on July 7, 2000.

Revised Law

Sec. 5158.0414. TROTLINE AND CRAB TRAP GEAR MARKING REQUIREMENTS. The commission shall prescribe all gear marking requirements for trotlines and crab traps under this subchapter in accordance with:

(1) Section 5104.0307 for trotlines; and

(2) Section 5253.0401 for crab traps. (Parks & Wild. Code, Sec. 47.084(c).)

Source Law

> (c) The commission shall prescribe all gear marking requirements for trotlines and crab traps under this subchapter in accordance with Chapter 66.

Revisor's Note

Section 47.084(c), Parks and Wildlife Code, requires the Parks and Wildlife Commission to prescribe all gear marking requirements for trotlines and crab traps under Subchapter D, Chapter 47, in accordance with Chapter 66 of that code. The pertinent part of Chapter 66 relating to trotlines is Section 66.206, revised as Section 5104.0307. The pertinent part of Chapter 66 relating to crab traps is Section 66.018, revised as Section 5253.0401. The revised law is drafted accordingly.

Revised Law

Sec. 5158.0415. FINFISH LICENSE MANAGEMENT PROGRAM. (a) The department shall implement a finfish license management program in accordance with commission proclamations under Chapter 5101 and this subchapter to:

(1) promote efficiency and economic stability in the commercial finfish industry; and

(2) conserve economically important finfish resources.

(b) The commission shall adopt rules necessary to administer the finfish license management program. (Parks & Wild. Code, Secs. 47.071, 47.084(b).)

Source Law

Sec. 47.071. FINFISH LICENSE MANAGEMENT PROGRAM. To promote efficiency and economic stability in the commercial finfish industry and to conserve economically important finfish resources, the department shall implement a finfish license management program in accordance with proclamations adopted by the commission under Chapter 61 and this subchapter.

[Sec. 47.084]

(b) The commission shall adopt any rules necessary for the administration of the program established under this subchapter.

Revisor's Note

Section 47.084(b), Parks and Wildlife Code, refers to the "program established under this

subchapter." For clarity and consistency in terminology used in this subchapter, the revised law substitutes "finfish license management program" for the quoted language because it is clear from the context that the referenced program is the finfish license management program implemented under Section 47.071, Parks and Wildlife Code, revised as Subsection (a) of this section.

Revised Law

Sec. 5158.0416. FINFISH LICENSE MANAGEMENT REVIEW BOARD. (a) The finfish license management review board is composed of nine members elected by the commercial finfish fisherman's license holders.

(b) A review board member must:

(1) qualify to hold a commercial finfish fisherman's license under this subchapter; or

(2) have knowledge of the commercial finfish industry.

(c) A majority of the review board members may not be residents of the same county.

(d) The review board shall advise the commission and department and make recommendations concerning the administrative aspects of the finfish license management program, including hardship appeal cases concerning eligibility, license transfer, license renewal, license suspension, and license revocation.

(e) The executive director shall:

(1) adopt procedures for the election and terms of review board members and the operation of the review board; and

(2) solicit and consider recommendations regarding the procedures described by Subdivision (1) from persons who purchased commercial finfish fisherman's licenses during the period beginning after September 1, 1997, and extending through April 20, 1999.

(f) A review board member serves without compensation or a per diem allowance.

(g) The review board is not subject to Chapter 2110, Government Code. (Parks & Wild. Code, Sec. 47.073.)

Source Law

Sec. 47.073. FINFISH LICENSE MANAGEMENT REVIEW BOARD. (a) The license holders under this subchapter shall elect a finfish license management review board of nine members.

(b) A majority of the members of the review board may not be residents of the same county.

(c) The review board shall advise the commission and department and make recommendations concerning the administrative aspects of the finfish licensing program, including hardship appeal cases concerning eligibility, license transfer, license renewal, license suspension, and license revocation.

(d) The executive director shall adopt procedures for the operation of the review board and the election and terms of board members. The executive director shall solicit and consider recommendations regarding these procedures from persons who purchased commercial finfish fisherman's licenses after September 1, 1997, and through April 20, 1999.

(e) A member of the review board must:

(1) qualify to obtain a commercial finfish fisherman's license under this subchapter; or

(2) be a person who has knowledge of the commercial finfish industry.

(f) The review board is not subject to Chapter 2110, Government Code.

(g) A member of the review board serves without compensation or a per diem allowance.

Revisor's Note

(1) Section 47.073(a), Parks and Wildlife Code, provides that the commercial finfish license holders "shall elect" a finfish license management review board of nine members. For clarity, the revised law restates the provision as a requirement for the composition of the review board rather than an affirmative duty on the license holders because it is clear from the context that the provision is intended to establish requirements for the review board's composition and not to require each license holder to vote to elect the members of the review board.

(2) Section 47.073(c), Parks and Wildlife Code, refers to the "finfish licensing program." For clarity and consistency in terminology, the revised law substitutes "finfish license management program"

for the quoted language because it is clear from the context that the terms are synonymous and "finfish license management program" is the program required to be implemented under Section 47.071, Parks and Wildlife Code, revised as Section 5158.0415(a).

Revised Law

Sec. 5158.0417. LICENSE BUYBACK PROGRAM. (a) The department may implement a commercial finfish fisherman's license buyback program as part of the finfish license management program.

(b) The commission by rule may establish criteria, using reasonable classifications, by which the department selects commercial finfish fisherman's licenses to be purchased. The commission may delegate to the executive director, for purposes of this section only, the authority to develop the criteria through rulemaking procedures, but the commission by order must finally adopt the rules establishing the criteria. The commission or executive director must consult with the review board concerning establishment of the criteria.

(c) The commission must retire each commercial finfish fisherman's license purchased under the buyback program until the commission finds that management of the finfish fishery allows reissuance of those licenses through auction or lottery.

(d) The commission shall consider the social and economic viability of the finfish industry and input from the review board regarding the reissuance of commercial finfish fisherman's licenses through auction or lottery. (Parks & Wild. Code, Secs. 47.081(a), (b), (c), (g).)

Source Law

> Sec. 47.081. LICENSE BUYBACK. (a) The department may implement a license buyback program for licenses issued under this subchapter as part of the finfish license management program established by this subchapter.
>
> (b) The commission by rule may establish criteria, using reasonable classifications, by which the department selects licenses to be purchased. The commission may delegate to the executive director, for purposes of this section only, the authority to develop the criteria through rulemaking procedures,

but the commission by order must finally adopt the rules establishing the criteria. The commission or executive director must consult with the finfish license management review board concerning establishment of the criteria.

(c) The commission must retire each license purchased under the license buyback program until the commission finds that management of the finfish fishery allows reissue of those licenses through auction or lottery.

(g) The commission shall consider the social and economic viability of the finfish industry and input from the finfish license management review board regarding the reissue of finfish licenses through auction or lottery.

Revisor's Note

Section 47.081(b), Parks and Wildlife Code, provides that, for the purposes of Section 47.081 of that code, the Parks and Wildlife Commission may delegate to the executive director of the Parks and Wildlife Department the authority to develop the criteria for buying back licenses. Section 47.081 is revised in pertinent part as this section, and the revised law is drafted accordingly.

Revised Law

Sec. 5158.0418. DISPOSITION OF LICENSE AND TRANSFER FEES. (a) Except as provided by Subsection (b), the commission shall send to the comptroller for deposit to the credit of the game, fish, and water safety account the fee from the issuance or transfer of a commercial finfish fisherman's license.

(b) The department shall set aside at least 20 percent of the fee from the issuance or transfer of a commercial finfish fisherman's license. The money shall be sent to the comptroller for deposit to the credit of the commercial license buyback subaccount in the game, fish, and water safety account. (Parks & Wild. Code, Secs. 47.075 (part), 47.079(b), 47.081(d).)

Source Law

Sec. 47.075. . . . All fees generated by the issuance of a license under this subchapter are to be sent to the comptroller for deposit to the credit of the game, fish, and water safety account subject to Section 47.081(d).

[Sec. 47.079]

(b) The commission shall send all license transfer fees to the comptroller for deposit to the credit of the game, fish, and water safety account subject to Section 47.081(d).

[Sec. 47.081]

(d) The department shall set aside at least 20 percent of the fees from licenses issued and license transfers approved under this subchapter. That money shall be sent to the comptroller for deposit to the credit of the commercial license buyback subaccount in the game, fish, and water safety account.

Revised Law

Sec. 5158.0419. LICENSE SUSPENSION. (a) The executive director may suspend a commercial finfish fisherman's license after notice to the license holder and an opportunity for a hearing if:

(1) the license holder or any other authorized operator of the licensed vessel is convicted of one or more flagrant offenses totaling three flagrant offenses involving the licensed vessel; or

(2) the license holder is convicted of theft of fishing gear or product associated with this subchapter.

(b) A suspension under this section may be for a period of:

(1) for a suspension under Subsection (a)(1):

(A) six months, if:

(i) each of the three flagrant offenses occurred within a 24-consecutive-month period beginning on or after September 1, 2000; and

(ii) the license holder has not previously had a license suspended under this section; or

(B) 12 months, if:

(i) each of the three flagrant offenses occurred within a 24-consecutive-month period; and

(ii) the license holder has previously had a license suspended under this section; or

(2) for a suspension under Subsection (a)(2), six months.

(c) The same flagrant offense may not be counted for more than one suspension under this section. (Parks & Wild. Code, Secs.

47.080(a), (b), (d).)

Source Law

Sec. 47.080. LICENSE SUSPENSION AND REVOCATION. (a) The executive director, after notice to a license holder and the opportunity for a hearing, may suspend a commercial finfish fisherman's license if:

(1) the license holder or any other authorized operator of the licensed vessel is convicted of one or more flagrant offenses totaling three flagrant offenses involving the licensed vessel; or

(2) the license holder is convicted of theft of fishing gear or product associated with this subchapter.

(b) A suspension under this section may be for:

(1) six months, if:

(A) each of the three flagrant offenses occurred within a 24-consecutive-month period beginning not earlier than September 1, 2000; and

(B) the license holder has not previously had a license suspended under this section;

(2) 12 months, if each of the three flagrant offenses occurred within a 24-consecutive-month period and the license holder has previously had a license suspended under this section; or

(3) six months, if the license holder is convicted of theft of fishing gear or product associated with this subchapter.

(d) The same flagrant offense may not be counted for more than one suspension under this section.

Revisor's Note

(1) Section 47.080(a)(1), Parks and Wildlife Code, provides for the suspension of a commercial finfish fisherman's license if the license holder or an authorized operator of the licensed vessel is convicted of one or more flagrant offenses totaling three flagrant offenses involving the licensed vessel. Section 47.080(a)(2), Parks and Wildlife Code, provides for the suspension of the license if the license holder is convicted of theft of certain fishing gear or product. Section 47.080(b), Parks and Wildlife Code, provides for a term of a suspension of six or 12 months for certain circumstances relating to "the three flagrant offenses," or six months for conviction of theft of certain fishing gear or product. It is clear from the context that the

suspension term provisions referring to "the three flagrant offenses" refer to a suspension under Section 47.080(a)(1) and that the suspension term provision referring to conviction of theft of certain fishing gear or product refers to a suspension under Section 47.080(a)(2). For clarity and the convenience of the reader, the revised law is drafted accordingly.

(2) Sections 47.080(b) and (d), Parks and Wildlife Code, refer to a license suspension under Section 47.080 of that code. The pertinent parts of Section 47.080 providing for the suspension of a license are revised as this section, and the revised law is drafted accordingly.

Revised Law

Sec. 5158.0420. LICENSE REVOCATION. The executive director may permanently revoke a commercial finfish fisherman's license after notice to the license holder and an opportunity for a hearing if:

(1) the license holder has previously had a license suspended twice under Section 5158.0419 and the license holder or another authorized operator of the licensed vessel is convicted of three flagrant offenses involving the licensed vessel in a 24-consecutive-month period; or

(2) the license holder is convicted of theft of fishing gear or product associated with this subchapter and the license holder has had a license previously suspended under Section 5158.0419. (Parks & Wild. Code, Sec. 47.080(c).)

Source Law

(c) The executive director, after notice and the opportunity for a hearing, may permanently revoke a license issued under this subchapter if:

(1) the license holder has previously had a license suspended twice under this section, and the license holder or any other authorized operator of the licensed vessel is convicted of three flagrant offenses involving the licensed vessel in a 24-consecutive-month period; or

(2) the license holder is convicted of theft of fishing gear or product associated with this

subchapter, and the license holder has had a license suspended previously under this section.

Revisor's Note

Section 47.080(c), Parks and Wildlife Code, refers to a license suspended under Section 47.080 of that code. The pertinent parts of Section 47.080 providing for the suspension of a license are revised as Section 5158.0419, and the revised law is drafted accordingly.

Revisor's Note
(End of Subchapter)

(1) Section 47.072, Parks and Wildlife Code, defines "license" as a commercial license issued in accordance with a proclamation under Subchapter D, Chapter 47, of that code. Section 47.074(d), Parks and Wildlife Code, revised as Section 5158.0404, requires the Parks and Wildlife Commission by proclamation to establish "a commercial finfish fisherman's license in accordance with the provisions of [Subchapter D, Chapter 47]." Subchapter D, Chapter 47, does not contain any additional provisions that authorize or require the establishment of another license under the subchapter; therefore, a license issued under the subchapter is necessarily a commercial finfish fisherman's license. The revised law omits Section 47.072 for clarity and consistency in terminology used in this subchapter because the substance of the definition is the phrase more commonly used in this subchapter to describe a person who holds a commercial finfish fisherman's license. The omitted law reads:

> Sec. 47.072. DEFINITION. In this subchapter, "license" means a commercial license issued in accordance with a proclamation under this subchapter that authorizes a person to engage in business as a commercial finfish fisherman.

(2) Section 47.078, Parks and Wildlife Code, establishes the period for which a commercial finfish

fisherman's license is valid. The revised law omits that provision because it duplicates in substance Section 47.031(a), Parks and Wildlife Code, revised in pertinent part as Section 5158.0201, which establishes the period that all licenses issued under the authority of Chapter 47, including a commercial finfish fisherman's license, are valid. The omitted law reads:

> Sec. 47.078. EXPIRATION OF LICENSE. A license required by this subchapter is valid only during the period for which it is issued without regard to the date on which the license is acquired. Each period is one year beginning on September 1 or another date set by the commission.

(3) Section 47.085, Parks and Wildlife Code, requires that money received for license fees and fines under Subchapter D, Chapter 47, of that code be sent to the Parks and Wildlife Department within a certain period. The revised law omits Section 47.085 because it duplicates in substance Section 47.055, Parks and Wildlife Code, revised as Sections 5158.0209 and 5158.9904, which apply, respectively, to money for license fees and fines under Chapter 47, Parks and Wildlife Code. The omitted law reads:

> Sec. 47.085. DISPOSITION OF FUNDS. Money received for a license issued under this subchapter and fines for violations of this subchapter shall be remitted to the department by the 10th day of the month following the date of collection.

SUBCHAPTER E. COMMERCIAL FISHING BOAT LICENSE

Revised Law

Sec. 5158.0501. COMMERCIAL FISHING BOAT LICENSE REQUIRED. (a) This section applies only to a vessel required to be numbered or registered under the laws of this state or the United States.

(b) Except as provided by Section 5158.0502, unless a vessel to which this section applies is licensed as a commercial fishing boat and has a commercial fishing boat number affixed to the vessel,

a person may not for compensation or for sale, barter, exchange, or other commercial purpose:

(1) use the vessel for catching or assisting in catching aquatic animal products, other than shrimp, oysters, or menhaden, from the waters of this state; or

(2) have on board the vessel, unload, or allow to be unloaded at a port or point in this state an edible aquatic animal product caught or taken from salt water outside this state that has not been previously unloaded outside this state. (Parks & Wild. Code, Sec. 47.007(a).)

Source Law

Sec. 47.007. COMMERCIAL FISHING BOAT LICENSE. (a) No person may use a vessel required to be numbered or registered under the laws of this state or the United States for the purpose of catching or assisting in catching aquatic products except shrimp, oysters, or menhaden, from the waters of this state, or have on board a vessel, or unload, or allow to be unloaded at a port or point in this state, edible aquatic products caught or taken from salt water outside the state without having been previously unloaded in some other state or foreign country, for pay or for the purpose of sale, barter, exchange, or any other commercial purpose unless the vessel is licensed as a commercial fishing boat and has a commercial fishing boat number affixed to it.

Revisor's Note

Section 47.007(a), Parks and Wildlife Code, imposes a general prohibition on certain uses of a vessel unless the vessel is licensed as a commercial fishing boat and has a commercial fishing boat number affixed to the vessel. For the convenience of the reader, the revised law adds "[e]xcept as provided by Section 5158.0502," to indicate to the reader that exceptions to the general prohibition are included in that section.

Revised Law

Sec. 5158.0502. EXEMPTIONS. A person is exempt from the requirement to hold a commercial fishing boat license under Section 5158.0501 if the person:

(1) engages in commercial finfish fishing and holds a

commercial finfish fisherman's license issued under Subchapter D in the person's immediate possession; or

(2) engages in or assists in commercial crab fishing and holds a license issued under Chapter 5253 for that activity. (Parks & Wild. Code, Secs. 47.002(h) (part), 47.007(f).)

Source Law

[Sec. 47.002]

(h) A person who engages in or assists in commercial crab fishing under Subchapter B, Chapter 78, and who holds a license for that activity is not required to obtain or possess . . . a commercial fishing boat license.

[Sec. 47.007]

(f) A person who engages in commercial finfish fishing under Subchapter D and who holds a commercial finfish fisherman's license issued under Subchapter D in their immediate possession is not required to obtain or possess a commercial fishing boat license.

Revised Law

Sec. 5158.0503. APPLICATION REQUIREMENTS. An applicant for a commercial fishing boat license that is not a renewal of the preceding year's license must submit to the department:

(1) the vessel's United States Coast Guard certificate of documentation; or

(2) the vessel's certificate of number issued by this state or another state. (Parks & Wild. Code, Sec. 47.007(d) (part).)

Source Law

(d) An applicant for a commercial fishing boat license, which is not a renewal of the previous year's license, must submit to the department the vessel's United States Coast Guard Certificate of Documentation or Texas' or other state's Certificate of Number for a vessel or motorboat. . . .

Revisor's Note

Section 47.007(d), Parks and Wildlife Code, refers to a certificate of number for a "vessel or motorboat." The revised law omits "motorboat" as redundant because "motorboat" is included in the meaning of "vessel."

Revised Law

Sec. 5158.0504. FORM OF LICENSE. A commercial fishing boat license must contain:

(1) the name of the boat if the boat is registered with the United States Coast Guard; and

(2) the number appearing on:

(A) the United States Coast Guard certificate of documentation; or

(B) the certificate of number issued by this state or another state. (Parks & Wild. Code, Sec. 47.007(d) (part).)

Source Law

(d) . . . The license issued by the department must contain:

(1) the name of the boat if the boat is registered with the United States Coast Guard; and

(2) the number appearing on the United States Coast Guard Certificate of Documentation or Texas' or other state's Certificate of Number.

Revised Law

Sec. 5158.0505. LICENSE AND NUMBER FEE. (a) Except as provided by Subsection (b), the fee for a commercial fishing boat license and number is $10.50 or a greater amount set by the commission.

(b) The fee for a commercial fishing boat license for a boat that is not numbered under Chapter 4052 or does not have a United States Coast Guard certificate of documentation that lists an address in this state for the boat owner or meet other criteria established by the commission is $60 or a greater amount set by the commission. (Parks & Wild. Code, Secs. 47.007(b), (e).)

Source Law

(b) Except as provided by Subsection (e) of this section, the fee for a commercial fishing boat license and number is $10.50 or an amount set by the commission, whichever amount is more.

(e) The fee for a commercial fishing boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of documentation issued by the United States Coast Guard that lists an address in Texas for the boat owner or other criteria established by the commission is $60 or

an amount set by the commission, whichever amount is more.

Revisor's Note

Section 47.007(e), Parks and Wildlife Code, refers to a boat that is not numbered under Chapter 31 of that code. The pertinent parts of Chapter 31 relating to the numbering of a boat are revised in Chapter 4052 of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 5158.0506. NUMBER ISSUANCE AND USE. (a) The commission by rule shall provide for the issuance and use of commercial fishing boat numbers.

(b) Except as otherwise provided by this subsection, a boat required to be licensed under this subchapter must have the boat's commercial fishing boat number affixed to the bow of the boat or to another location on the boat that is readily accessible for unimpaired visual inspection of the number by a person on another boat. If the number cannot be affixed properly to a wooden boat, the commission shall provide for an alternate means to identify the boat.

(c) Except as otherwise provided by this subchapter or by commission rule, a commercial fishing boat license is not valid unless the number is affixed to the boat as required by this subchapter and commission rule. (Parks & Wild. Code, Sec. 47.007(c).)

Source Law

(c) The commission shall provide by rule for the issuance and use of commercial fishing boat numbers. Each boat required to be licensed by this section shall have the number affixed to the bow of the boat or to such other location on the boat as will be readily accessible for unimpaired visual inspection of the number by a person on another boat. In such instances where the number will not properly affix to a wooden boat, the commission shall provide for an alternate means of identification of such boat. Unless provided otherwise herein or by the rules of the commission, a license issued under this section is not valid unless the number is affixed to the boat as required by this section and the rules of the commission.

Revisor's Note

Section 47.007(c), Parks and Wildlife Code, provides that, unless "provided otherwise herein" or by commission rule, a commercial fishing boat license is not valid unless the number assigned to the boat is affixed to the boat as required by Section 47.007 of that code and commission rule. The revised law substitutes "this subchapter" for "herein" because the provisions relating to affixing a number to a commercial fishing boat are in Section 47.007, revised in this subchapter.

SUBCHAPTER F. MENHADEN BOAT LICENSES

Revised Law

Sec. 5158.0601. MENHADEN BOAT LICENSE REQUIRED. (a) A boat may not be used to catch, store, or transport menhaden in tidal water unless the owner of the boat holds a Class A or Class C menhaden boat license.

(b) A boat may not be used to assist in catching menhaden in tidal water unless the owner of the boat holds a Class B menhaden boat license. (Parks & Wild. Code, Secs. 47.008(a), (b).)

Source Law

Sec. 47.008. MENHADEN BOAT LICENSES. (a) A boat may not be used for the purpose of catching, storing, and transporting menhaden in tidal water unless the owner of the boat has acquired:

(1) a Class A menhaden boat license; or

(2) a Class C menhaden boat license.

(b) A boat may not be used for the purpose of assisting in catching menhaden in tidal water unless the owner of the boat has acquired a Class B menhaden boat license.

Revised Law

Sec. 5158.0602. LICENSE FEES. The commission shall set the fee for each menhaden boat license for each yearly period in an amount of:

(1) for a Class A menhaden boat license, not less than $2,000;

(2) for a Class B menhaden boat license, not more than

$50; and

(3) for a Class C menhaden boat license, $420. (Parks & Wild. Code, Sec. 47.008(d).)

Source Law

(d) The commission shall set the license fee for each menhaden boat for each yearly period:
(1) in an amount not less than $2,000 for a Class A menhaden boat license;
(2) in an amount not to exceed $50 for a Class B menhaden boat license; and
(3) at $420 for a Class C menhaden boat license.

Revised Law

Sec. 5158.0603. LIMITATION ON TAKING OF MENHADEN. A Class C menhaden boat license holder may not take from the public water of this state more than:

(1) 300 pounds a day of menhaden; or

(2) an amount set by the department. (Parks & Wild. Code, Sec. 47.008(a-1).)

Source Law

(a-1) The holder of a Class C menhaden boat license may not take or harvest from the public water of the state more than 300 pounds a day of menhaden or an amount set by the department.

Revisor's Note

Section 47.008(a-1), Parks and Wildlife Code, imposes a limitation on the amount of menhaden a Class C menhaden boat license holder may "take or harvest" from public water. Section 1.101, Parks and Wildlife Code, revised in Section 1001.0104, defines "take" for purposes of the code to mean in pertinent part "collect, hook, hunt, net, shoot, or snare, by any means or device." The revised law omits "harvest" as unnecessary because, in context, "harvest" is included in the meaning of "take."

SUBCHAPTER G. MENHADEN FISH PLANT LICENSE

Revised Law

Sec. 5158.0701. MENHADEN FISH PLANT LICENSE REQUIRED. A person may not operate a menhaden fish plant unless the person holds

a menhaden fish plant license. (Parks & Wild. Code, Sec. 47.016(a).)

Source Law

> Sec. 47.016. MENHADEN FISH PLANT LICENSE. (a) No person may operate a menhaden fish plant unless he has obtained a menhaden fish plant license.

Revised Law

Sec. 5158.0702. APPLICATION REQUIREMENTS. (a) An application for a menhaden fish plant license must:

(1) be submitted on a form the department prescribes; and

(2) include:

(A) the application filing fee in the amount prescribed by Section 5158.0703; and

(B) a certified copy of an order of the commissioners court of the county in which the plant will be located containing:

(i) a description of the plant and the plant's location; and

(ii) the commissioners court's approval for the construction and operation of the plant.

(b) A commissioners court's decision approving or disapproving the construction of a menhaden fish plant is final and may not be reviewed or appealed. (Parks & Wild. Code, Secs. 47.016(b) (part), (c).)

Source Law

> (b) Applications for a menhaden fish plant license must be submitted on forms prescribed by the department and accompanied by a filing fee. . . . The filing fee shall be accompanied by a certified copy of an order of the commissioners court of the county in which the plant will be located containing:
>
> (1) a description of the plant and its location; and
>
> (2) approval of the court for the construction and operation of the plant.
>
> (c) Decisions of the commissioners court in approving or disapproving the construction of a plant are final and may not be reviewed or appealed.

Revised Law

Sec. 5158.0703. APPLICATION FILING FEE. (a) The filing fee

for a menhaden fish plant license application is $100 or a greater amount set by the commission.

(b) The filing fee is nonrefundable, regardless of the department's decision on the application. (Parks & Wild. Code, Secs. 47.016(b) (part), (d) (part).)

Source Law

> (b) . . . The filing fee is $100 or an amount set by the commission, whichever amount is more. . . .
>
> (d) . . . Regardless of the decision of the department, the filing fee is not refundable.

Revised Law

Sec. 5158.0704. LICENSE ISSUANCE; HEARING. (a) The department shall issue a menhaden fish plant license after a hearing and the department's finding that the construction and operation of the plant are in the public interest.

(b) At least 20 days before the date set for the hearing, the department shall give notice of the hearing to:

(1) the county judge of the county in which the plant is to be constructed; and

(2) all known interested parties. (Parks & Wild. Code, Secs. 47.016(d) (part), (e).)

Source Law

> (d) A menhaden fish plant license shall be issued after a hearing and a finding by the department that the construction and operation of the plant is in the public interest. . . .
>
> (e) Notice of the hearing must be given at least 20 days prior to the date set for the hearing to the county judge of the county in which the plant is to be constructed and to all known interested parties.

Revisor's Note

(1) Section 47.016(d), Parks and Wildlife Code, requires issuance of a menhaden fish plant license after certain conditions are satisfied. Section 12.001(a), Parks and Wildlife Code, revised as Section 2051.0103, provides that the Parks and Wildlife Department shall administer the laws related to game, fish, oysters, and marine life. For clarity, the

revised law imposes the duty to issue a menhaden fish plant license on the department because it is clear from the context that only the department may issue the license.

(2) Section 47.016(e), Parks and Wildlife Code, provides the date by which notice must be given to certain parties of a hearing on the issuance of a menhaden fish plant license. For clarity, the revised law imposes the duty to give notice of the hearing on the Parks and Wildlife Department because it is clear from the context that the department is the entity responsible for providing the hearing notice.

Revised Law

Sec. 5158.0705. LICENSE RENEWAL. The department shall renew a menhaden fish plant license on:

(1) application by the license holder; and

(2) payment of a renewal fee of $50 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 47.017.)

Source Law

Sec. 47.017. RENEWAL OF FISH PLANT LICENSE. The department shall renew a menhaden fish plant license on the application of the licensee and on the payment of a renewal fee of $50 or an amount set by the commission, whichever amount is more.

SUBCHAPTER H. WHOLESALE FISH DEALER'S LICENSE

Revised Law

Sec. 5158.0801. WHOLESALE FISH DEALER'S LICENSE REQUIRED. Except as provided by Section 5158.0802, a person may not engage in business as a wholesale fish dealer unless the person holds a wholesale fish dealer's license. (Parks & Wild. Code, Sec. 47.009(a).)

Source Law

Sec. 47.009. WHOLESALE FISH DEALER'S LICENSE. (a) Except as provided by Subsection (c) of this section, no person may engage in business as a wholesale fish dealer unless he has obtained a wholesale fish dealer's license.

Revised Law

Sec. 5158.0802. EXEMPTION. An operator of a commercial aquaculture facility located in this state is exempt from the requirement to hold a wholesale fish dealer's license under Section 5158.0801 if the operator's business activities with regard to the sale of aquatic animal products involve only aquatic animal products raised on the operator's commercial aquaculture facility. (Parks & Wild. Code, Sec. 47.009(c) (part).)

Source Law

> (c) An operator of a Texas commercial aquaculture facility . . . is not required to obtain or possess a wholesale fish dealer's license if the operator's business activities with regard to the sale of aquatic products involve aquatic products raised on the operator's commercial aquaculture facility only.

Revised Law

Sec. 5158.0803. LICENSE FEE. The fee for a wholesale fish dealer's license is $400 for each place of business or a greater amount set by the commission. (Parks & Wild. Code, Sec. 47.009(b).)

Source Law

> (b) The license fee for a wholesale fish dealer's license is $400 for each place of business or an amount set by the commission, whichever amount is more.

Revised Law

Sec. 5158.0804. LIMITATION ON PURCHASE OF AQUATIC ANIMAL PRODUCTS BY WHOLESALE FISH DEALER. A wholesale fish dealer may not purchase for resale or receive for sale, barter, exchange, or other commercial purpose an aquatic animal product from any person in this state unless the dealer purchases the product from:

(1) the operator of a commercial aquaculture facility; or

(2) the holder of:

(A) a wholesale fish dealer's license;

(B) a general commercial fisherman's license;

(C) a commercial finfish fisherman's license;

(D) a commercial shrimp boat license;

(E) a commercial gulf shrimp unloading license;

(F) a commercial shrimp boat captain's license;

(G) a commercial crab fisherman's license;

(H) a commercial oyster fisherman's license;

(I) a commercial oyster boat license;

(J) a commercial oyster boat captain's license; or

(K) a cultivated oyster mariculture permit. (Parks & Wild. Code, Sec. 47.0091 (part).)

Source Law

Sec. 47.0091. PURCHASE OF AQUATIC PRODUCTS BY WHOLESALE FISH DEALERS. No wholesale fish dealer may purchase for resale or receive for sale, barter, exchange, or any other commercial purpose any aquatic product from any person or entity in this state unless the dealer purchases the product from the operator of a commercial aquaculture facility . . . or the holder of:

(1) a general commercial fisherman's license;

(2) a commercial oyster fisherman's license;

(3) a commercial oyster boat license;

(4) a wholesale fish dealer's license;

(5) a commercial shrimp boat license;

(6) a commercial oyster boat captain's license;

(7) a commercial shrimp boat captain's license;

(8) a commercial crab fisherman's license;

(9) a commercial finfish fisherman's license;

(10) a commercial gulf shrimp unloading license; or

(11) a cultivated oyster mariculture permit.

Revisor's Note

Section 47.0091, Parks and Wildlife Code, refers to a "person or entity." Throughout this chapter, the revised law omits "entity" from the quoted language for the reason stated in the revisor's note to Section 5053.0303.

SUBCHAPTER I. WHOLESALE FISH DEALER'S TRUCK LICENSE

Revised Law

Sec. 5158.0901. DEFINITIONS. In this subchapter, "cultured species" and "private facility" have the meanings assigned by Section 134.001, Agriculture Code. (Parks & Wild. Code, Sec.

47.010(b) (part).)

Source Law

> (b) . . . cultured species . . . a private facility, as those terms are defined by Section 134.001, Agriculture Code, ...

Revised Law

Sec. 5158.0902. EXEMPTION. A resident who operates a vehicle used to transport cultured species from a private facility and sells cultured species from the vehicle is exempt from the requirement to hold a wholesale fish dealer's truck license for the vehicle under this subchapter if the vehicle is used, with regard to the sale or transportation of aquatic animal products, only to sell or transport aquatic animal products raised on a commercial aquaculture facility located in this state that belongs to the vehicle operator. (Parks & Wild. Code, Sec. 47.010(b) (part).)

Source Law

> (b) A resident who operates a vehicle used to transport cultured species from a private facility, . . . and sells cultured species from the vehicle is not required to obtain a license for the vehicle under this section if the vehicle is used with regard to the sale or transportation of only aquatic products raised on a Texas commercial aquaculture facility belonging to the operator of the vehicle.

Revised Law

Sec. 5158.0903. LICENSE FEE. The fee for a wholesale fish dealer's truck license is $250 for each truck or a greater amount set by the commission. (Parks & Wild. Code, Sec. 47.010(a).)

Source Law

> Sec. 47.010. WHOLESALE TRUCK DEALER'S FISH LICENSE. (a) The license fee for a wholesale truck dealer's fish license is $250 for each truck or an amount set by the commission, whichever amount is more.

Revisor's Note

Section 47.010(a), Parks and Wildlife Code, provides the fee for a "wholesale truck dealer's fish license." The revised law substitutes "wholesale fish dealer's truck license" for the quoted language because it is clear from the context that "wholesale

truck dealer's fish license" is a drafting error and the legislature intended to establish the fee for a license for the truck of a wholesale fish dealer, not a fee for a license for the fish of a wholesale truck dealer.

SUBCHAPTER J. RETAIL FISH DEALER'S LICENSE

Revised Law

Sec. 5158.1001. RETAIL FISH DEALER'S LICENSE REQUIRED. Except as provided by Section 5158.1002, a person may not engage in business as a retail fish dealer unless the person holds a retail fish dealer's license. (Parks & Wild. Code, Sec. 47.011(a).)

Source Law

> Sec. 47.011. RETAIL FISH DEALER'S LICENSE. (a) Except as provided by Subsection (c) of this section, no person may engage in business as a retail fish dealer unless he has obtained a retail fish dealer's license.

Revised Law

Sec. 5158.1002. EXEMPTION. The operator of a commercial aquaculture facility located in this state is exempt from the requirement to hold a retail fish dealer's license if the operator's business activities with regard to the sale of aquatic animal products involve only the sale of aquatic animal products raised on the operator's commercial aquaculture facility. (Parks & Wild. Code, Sec. 47.011(c) (part).)

Source Law

> (c) An operator of a Texas commercial aquaculture facility . . . is not required to obtain or possess a retail fish dealer's license if the operator's business activities with regard to the sale of aquatic products involve aquatic products raised on the operator's commercial aquaculture facility only.

Revised Law

Sec. 5158.1003. LICENSE FEE. The fee for a retail fish dealer's license is $30 for each place of business or a greater amount set by the commission. (Parks & Wild. Code, Sec. 47.011(b).)

Source Law

> (b) The license fee for a retail fish dealer's license is $30 for each place of business or an amount

set by the commission, whichever amount is more.

Revised Law

Sec. 5158.1004. LIMITATION ON PURCHASE OF AQUATIC ANIMAL PRODUCTS BY RETAIL FISH DEALER. (a) A retail fish dealer may not purchase for resale or receive for sale, barter, exchange, or other commercial purpose an aquatic animal product from any person in this state unless the dealer purchases the product from:

(1) the operator of a commercial aquaculture facility;

(2) the holder of a wholesale fish dealer's license; or

(3) subject to Subsection (b), the holder of:

(A) a general commercial fisherman's license;

(B) a commercial finfish fisherman's license;

(C) a commercial shrimp boat license;

(D) a commercial gulf shrimp unloading license;

(E) a commercial shrimp boat captain's license; or

(F) a commercial crab fisherman's license.

(b) A retail fish dealer may purchase aquatic animal products from a license holder listed in Subsection (a)(3) only if the dealer has given to the executive director or the executive director's designee written notice of the dealer's intent to purchase aquatic animal products from the license holder. (Parks & Wild. Code, Sec. 47.0111 (part).)

Source Law

> Sec. 47.0111. PURCHASE OF AQUATIC PRODUCTS BY RETAIL FISH DEALERS. No retail fish dealer may purchase for resale or receive for sale, barter, exchange, or any other commercial purposes any aquatic products from any person or entity in this state unless the dealer purchases the product from the operator of a commercial aquaculture facility . . . or the holder of:
>
> (1) a wholesale fish dealer's license; or
>
> (2) a general commercial fisherman's license, a commercial shrimp boat license, a commercial shrimp boat captain's license, a commercial gulf shrimp unloading license, a commercial crab fisherman's license, or a commercial finfish fisherman's license when the retail fish dealer has given written notification to the director or the director's designee of the dealer's intent to purchase aquatic products from the holder of a general commercial fisherman's license, a commercial shrimp boat license, a commercial shrimp boat captain's

license, a commercial crab fisherman's license, or a commercial finfish fisherman's license.

Revisor's Note

Section 47.0111, Parks and Wildlife Code, provides that a retail fish dealer may not purchase or receive for certain purposes an aquatic product from a person or entity in this state unless certain conditions are met. One condition authorizes that conduct if the dealer purchases the product from certain license holders, including a commercial gulf shrimp unloading license holder, and gives written notice of the dealer's intent to purchase those products from a nearly identical list of license holders, with the exception of a commercial gulf shrimp unloading license holder. Chapter 1151 (H.B. 1260), Acts of the 85th Legislature, Regular Session, 2017, amended Chapters 47 and 77, Parks and Wildlife Code, to add a commercial gulf shrimp unloading license to the types of required commercial fishing licenses, but failed to add that license to the second list of license holders provided in Section 47.0111(2). The revised law refers to all the listed license holders, including the commercial gulf shrimp unloading license holder, because it is clear from the context that the notice given must cover the same type of license holder from which the dealer purchases the product and that the omission of a commercial gulf shrimp unloading license holder from the second list of license holders was a drafting error.

SUBCHAPTER K. RETAIL DEALER'S TRUCK LICENSE

Revised Law

Sec. 5158.1101. DEFINITIONS. In this subchapter, "cultured species" and "private facility" have the meanings assigned by Section 134.001, Agriculture Code. (Parks & Wild. Code, Sec. 47.013(c) (part).)

Source Law

(c) . . . cultured species . . . a private facility, as those terms are defined by Section 134.001, Agriculture Code, ...

Revised Law

Sec. 5158.1102. RETAIL DEALER'S TRUCK LICENSE REQUIRED. Except as provided by Section 5158.1103, a person may not engage in the business of selling edible aquatic animal products to consumers from a motor vehicle unless the person holds a retail dealer's truck license. (Parks & Wild. Code, Sec. 47.013(a).)

Source Law

Sec. 47.013. RETAIL DEALER'S TRUCK LICENSE. (a) Except as provided by Subsection (c) of this section, a person may engage in the business of selling edible aquatic products from a motor vehicle to consumers only if he obtains a retail dealer's truck license.

Revised Law

Sec. 5158.1103. EXEMPTION. A resident who operates a vehicle used to transport cultured species from a private facility and sells cultured species from the vehicle is exempt from the requirement to hold a retail dealer's truck license for the vehicle under Section 5158.1102 if the vehicle is used, with regard to the sale or transportation of aquatic animal products, only to sell or transport aquatic animal products raised on a commercial aquaculture facility located in this state that belongs to the vehicle operator. (Parks & Wild. Code, Sec. 47.013(c) (part).)

Source Law

(c) A resident who operates a vehicle used to transport cultured species from a private facility, . . . and sells cultured species from the vehicle is not required to obtain a license for the vehicle under this section when the vehicle is used with regard to the sale or transportation of only aquatic products raised on a Texas commercial aquaculture facility belonging to the operator of the vehicle.

Revised Law

Sec. 5158.1104. LICENSE FEE. The fee for a retail dealer's truck license is $50 for each truck or a greater amount set by the commission. (Parks & Wild. Code, Sec. 47.013(b).)

Source Law

(b) The license fee for a retail dealer's truck license is $50 for each truck or an amount set by the commission, whichever amount is more.

SUBCHAPTER L. BAIT DEALER'S LICENSE

Revised Law

Sec. 5158.1201. BAIT DEALER'S LICENSE REQUIRED. Except as provided by Section 5158.1202, a person may not engage in business as a bait dealer unless the person holds the appropriate bait dealer's license. (Parks & Wild. Code, Sec. 47.014(a).)

Source Law

Sec. 47.014. BAIT DEALER'S LICENSE. (a) No person may engage in business as a bait dealer unless the person has obtained the appropriate bait dealer's license.

Revisor's Note

Section 47.014(a), Parks and Wildlife Code, provides that a person may not engage in business as a bait dealer unless the person holds the appropriate bait dealer's license. For the convenience of the reader, the revised law adds "[e]xcept as provided by Section 5158.1202," to indicate to the reader that an exception to the requirement to hold a bait dealer's license is included in that section.

Revised Law

Sec. 5158.1202. EXEMPTION. An operator of a commercial aquaculture facility located in this state is exempt from the requirement to hold a bait dealer's license under Section 5158.1201 if the operator's business activities with regard to the sale of aquatic animal products for bait involve only the sale of aquatic animal products raised on the operator's commercial aquaculture facility. (Parks & Wild. Code, Sec. 47.014(c) (part).)

Source Law

(c) An operator of a Texas commercial aquaculture facility . . . is not required to obtain or possess a bait dealer's license if the operator's business activities with regard to the sale of aquatic products for bait involve only aquatic products raised on the operator's commercial aquaculture facility.

Revised Law

Sec. 5158.1203. LICENSE FEE. The fee for a bait dealer's license is $20 for each place of business or a greater amount set by the commission. (Parks & Wild. Code, Sec. 47.014(b).)

Source Law

> (b) The license fee for a bait dealer's license is $20 for each place of business or an amount set by the commission, whichever amount is more.

SUBCHAPTER M. FISHING GUIDE LICENSES

Revised Law

Sec. 5158.1301. DEFINITION. In this subchapter, "fishing guide" means a person who for compensation accompanies, assists, or transports a person engaged in fishing in the water of this state. (Parks & Wild. Code, Sec. 47.001(6).)

Source Law

> Sec. 47.001. DEFINITIONS. In this chapter:
>
> (6) "Fishing guide" means a person who, for compensation, accompanies, assists, or transports a person or persons engaged in fishing in the water of this state.

Revised Law

Sec. 5158.1302. COMMISSION RULES. The commission may adopt rules governing the issuance and use of resident fishing guide licenses and nonresident fishing guide licenses, including rules creating separate resident and nonresident licenses for use in salt water and fresh water. (Parks & Wild. Code, Secs. 47.004(b), 47.005(b).)

Source Law

> [Sec. 47.004]
> (b) The commission may adopt rules governing the issuance and use of a resident fishing guide license, including rules creating separate resident fishing guide licenses for use in saltwater and freshwater.
>
> [Sec. 47.005]
> (b) The commission may adopt rules governing the issuance and use of a nonresident fishing guide license, including rules creating separate nonresident fishing guide licenses for use in saltwater and freshwater.

Revised Law

Sec. 5158.1303. RESIDENT FISHING GUIDE LICENSE REQUIRED. A

resident may not engage in business as a fishing guide unless the resident holds a resident fishing guide license. (Parks & Wild. Code, Sec. 47.004(a).)

Source Law

> Sec. 47.004. RESIDENT FISHING GUIDE LICENSE. (a) No resident may engage in business as a fishing guide unless the resident has obtained a resident fishing guide license.

Revised Law

Sec. 5158.1304. NONRESIDENT FISHING GUIDE LICENSE REQUIRED. A nonresident may not engage in business as a fishing guide unless the nonresident holds a nonresident fishing guide license. (Parks & Wild. Code, Sec. 47.005(a).)

Source Law

> Sec. 47.005. NONRESIDENT FISHING GUIDE LICENSE. (a) No nonresident may engage in business as a fishing guide unless the nonresident has obtained a nonresident fishing guide license.

Revised Law

Sec. 5158.1305. LICENSE FEES. The fee for a resident, nonresident, saltwater, or freshwater fishing guide license is $75 or a greater amount the commission separately sets for each fishing guide license type. (Parks & Wild. Code, Sec. 47.006.)

Source Law

> Sec. 47.006. LICENSE FEE. The license fee for resident, nonresident, freshwater, and saltwater guides is $75 or an amount for each guide type set separately by the commission, whichever amount is more.

SUBCHAPTER Y. MISCELLANEOUS PROVISIONS

Revised Law

Sec. 5158.9801. INTERSTATE TRANSPORTATION OF AQUATIC ANIMAL PRODUCTS. (a) A person may not bring into this state and deliver aquatic animal products for a commercial purpose unless the person holds, as applicable:

(1) a wholesale fish dealer's license issued under Subchapter H;

(2) a retail fish dealer's license issued under Subchapter J; or

(3) a bait dealer's license issued under Subchapter L.

(b) A licensed dealer may sell in this state aquatic animal products lawfully taken from the waters of another state without regard to size limitations imposed on those products taken in this state. The dealer shall maintain a record of the source and disposition of any undersize or oversize products while the dealer retains the products and until at least the 30th day after the date of disposition.

(c) A person may not transport aquatic animal products out of this state for commercial purposes unless the person holds a wholesale fish dealer's license issued under Subchapter H or a retail fish dealer's license issued under Subchapter J.

(d) A person who delivers aquatic animal products for a licensed wholesale fish dealer or a licensed retail fish dealer must possess a copy of the dealer's license while making deliveries. (Parks & Wild. Code, Sec. 47.018.)

Source Law

> Sec. 47.018. INTERSTATE TRANSPORTATION. (a) No person may bring into this state and deliver aquatic products for commercial purposes unless the person has obtained a wholesale fish dealer's license, a retail fish dealer's license, or a bait dealer's license, as applicable, issued under this subchapter.
>
> (b) Aquatic products lawfully taken from the waters of another state may be sold within this state by licensed dealers without regard to size limitations imposed on such products taken within this state. A record of the source and disposition of such undersize or oversize products shall be maintained by the dealer for as long as the undersize or oversize products are retained and for at least 30 days thereafter.
>
> (c) No person may transport aquatic products out of this state for commercial purposes unless the transporter first obtains a wholesale fish dealer's license or a retail fish dealer's license.
>
> (d) A person who delivers aquatic products for a licensed wholesale fish dealer or retail fish dealer must possess a copy of the dealer's license while making deliveries.

Revised Law

Sec. 5158.9802. AQUATIC ANIMAL PRODUCT SIZE. (a) A person engaged in business as a commercial fisherman or wholesale or retail fish dealer may not possess in the person's place of business or on a boat or vehicle for commercial purposes an aquatic animal

product of greater or lesser length than the length set out in the applicable commission proclamations issued under Subchapter D, Chapter 5053, or Chapter 5054, 5101, or 5254 unless otherwise provided by this code or Chapter 134, Agriculture Code.

(b) This section does not prohibit a wholesale or retail fish dealer from processing and selling lawful aquatic animal products by cutting, filleting, wrapping, freezing, or otherwise preparing the aquatic animal products for market.

(c) The taking of an aquatic animal product of greater or lesser length than the length set out in the applicable commission proclamations issued under Subchapter D, Chapter 5053, or Chapter 5054, 5101, or 5254 on board a licensed commercial shrimp boat engaged in the taking of shrimp is not a violation of this section if the aquatic animal product of unlawful size is returned to the water from which the product was taken in a manner to ensure the product's best chance for survival. (Parks & Wild. Code, Sec. 47.034.)

Source Law

Sec. 47.034. AQUATIC PRODUCT SIZE. (a) No person engaged in business as a commercial fisherman or wholesale or retail fish dealer may possess in his place of business or on a boat or vehicle for commercial purposes aquatic products of greater or lesser length than set out in the applicable proclamations of the commission adopted under Chapter 61 or 66 of this code unless otherwise provided by this code or Chapter 134 of the Agriculture Code.

(b) This section does not prohibit a wholesale or retail fish dealer from processing and selling lawful aquatic products by cutting, filleting, wrapping, freezing, or otherwise preparing the aquatic products for market.

(c) The taking of aquatic products of greater or lesser length than set out in the applicable proclamations of the commission under Chapter 61 or 66 of this code on board a licensed commercial shrimp boat engaged in the taking of shrimp is not a violation of this section if the aquatic products of unlawful size are returned to the water from which they were taken in a manner to insure their best chance for survival.

Revisor's Note

(1) Section 47.034(a), Parks and Wildlife Code, refers to proclamations of the Parks and Wildlife Commission "adopted" under Chapter 61 or 66 of that

code. The revised law substitutes "issued" for "adopted" to provide consistency in terminology and because the terms are synonymous in this context.

(2) Sections 47.034(a) and (c), Parks and Wildlife Code, refer to aquatic products of greater or lesser length than set out in the applicable proclamations of the Parks and Wildlife Commission adopted under Chapter 61 or 66 of that code. The pertinent parts of Chapter 66 relating to applicable commission proclamations under that chapter are revised in Subchapter D, Chapter 5053, and Chapters 5054 and 5254, and the revised law is drafted accordingly. Although Chapter 5054 also includes the revision of provisions not derived from Chapter 66, it is appropriate to refer to Chapter 5054 in its entirety because the additional provisions do not authorize the adoption of a commission proclamation.

Revised Law

Sec. 5158.9803. USE OF NET OR PURSE SEINE FOR MENHADEN. (a) Except as provided by Subsection (b), a net or purse seine used to catch menhaden may not be:

(1) less than one and one-half inch stretched mesh, excluding the bag; or

(2) used:

(A) in a bay, river, pass, or tributary;

(B) within one mile of a barrier, jetty, island, or pass;

(C) within one-half mile offshore in the Gulf of Mexico; or

(D) to take edible aquatic animal products for sale, barter, or exchange.

(b) The holder of a Class C menhaden boat license issued under Subchapter F may use a cast net, as defined by the commission, to catch menhaden in any coastal bay, river, or tributary landward

from this state's shoreline along the coast of the Gulf of Mexico.

(c) A person who lawfully catches menhaden in tidal water may not sell, barter, or exchange any edible aquatic animal products caught in a menhaden net or purse seine. Possession of edible aquatic fish in an amount that exceeds five percent by volume of the amount of menhaden fish in possession is a prima facie violation of this chapter. (Parks & Wild. Code, Sec. 47.038.)

Source Law

Sec. 47.038. SEINES OR NETS FOR MENHADEN. (a) Except as provided by Subsection (a-1), nets or purse seines used for catching menhaden may not be:

(1) less than one and one-half inch stretched mesh, excluding the bag;

(2) used in any bay, river, pass, or tributary, nor within one mile of any barrier, jetty, island, or pass, nor within one-half mile offshore in the Gulf of Mexico; or

(3) used for the purpose of taking edible aquatic products for the purpose of barter, sale, or exchange.

(a-1) The holder of a Class C menhaden boat license issued under Section 47.008 may use a cast net, as defined by the commission, to catch menhaden in any coastal bay, river, or tributary landward from the shoreline of the state along the coast of the Gulf of Mexico.

(b) No person lawfully catching menhaden in the tidal water of this state may sell, barter, or exchange any edible aquatic products caught in a menhaden seine or net. Possession of edible aquatic fish in excess of five percent by volume of menhaden fish in possession is a prima facie violation of this chapter.

Revisor's Note

Section 47.038(b), Parks and Wildlife Code, refers to "the tidal water of this state." The revised law omits "of this state" for the reasons stated in Revisor's Note (1) to Section 5158.0101.

SUBCHAPTER Z. ENFORCEMENT

Revised Law

Sec. 5158.9901. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter.

(b) Except as provided by Section 5158.9902, an offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 47.051 (part).)

Source Law

Sec. 47.051. PENALTY. Except as provided by Sections 47.052 and . . . , a person who violates a provision of this chapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revised Law

Sec. 5158.9902. ENHANCEMENT BASED ON PREVIOUS CONVICTION FOR CERTAIN OFFENSES. An offense under Section 5158.9901 for a violation of Section 5158.9803 or Subchapter F or G is a Class B Parks and Wildlife Code misdemeanor if it is shown on the trial of the offense that, during the five-year period preceding the trial date of the offense, the defendant has previously been convicted of an offense under Section 5158.9901 for a violation of the applicable provision. (Parks & Wild. Code, Sec. 47.052(d).)

Source Law

(d) If it is shown at the trial of the defendant for a violation of Section 47.008, 47.016, or 47.038 of this code that he has been convicted within five years before the trial date of a violation of the section for which he is being prosecuted, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

Revisor's Note

Sections 47.052(a), (b), and (c), Parks and Wildlife Code, establish offenses, penalties, and procedures related to a violation of Section 47.003(a) of that code. Section 11, Chapter 455 (S.B. 1303), Acts of the 76th Legislature, Regular Session, 1999, provides that Section 47.003, Parks and Wildlife Code, is repealed on the effective date of a proclamation issued by the Parks and Wildlife Commission under Subchapter D, Chapter 47, of that code, as added by that Act, establishing requirements for a commercial finfish fisherman's license under that subchapter. The revised law omits the provisions of Section 47.052 relating to a violation of Section 47.003(a) because the proclamation was issued and Section 47.003 was repealed effective July 6, 2000. The omitted law

reads:

> Sec. 47.052. PENALTY. (a) A person who fails to comply with or who violates a provision of Section 47.003(a) of this code commits an offense that is a Class B Parks and Wildlife Code misdemeanor.
>
> (b) The department may seize boats, nets, seines, trawls, or other tackle in the possession of a person violating the sections listed in Subsection (a) of this section and hold them until after the trial of the person.
>
> (c) Violations of the above sections may also be enjoined by the attorney general by suit filed in a district court in Travis County.

Revised Law

Sec. 5158.9903. PRIMA FACIE EVIDENCE OF POSSESSION FOR PURPOSE OF SALE. Proof of possession of undersized or oversized fish in the place of business of a wholesale or retail fish dealer or on board a boat engaged in commercial fishing or in a commercial vehicle is prima facie evidence of possession for the purpose of sale. (Parks & Wild. Code, Sec. 47.035.)

Source Law

> Sec. 47.035. PRIMA FACIE EVIDENCE. Proof of possession of any undersized or oversized fish in the place of business of any wholesale or retail fish dealer or on board any boat engaged in commercial fishing or in any commercial vehicle is prima facie evidence of possession for the purpose of sale.

Revised Law

Sec. 5158.9904. DISPOSITION OF MONEY FROM FINES. Money received for a fine paid for a violation of this chapter, less allowable deductions, must be sent to the department not later than the 10th day of the month following receipt. (Parks & Wild. Code, Sec. 47.055 (part).)

Source Law

> Sec. 47.055. DISPOSITION OF FUNDS. Money received for . . . fines paid for violations of this chapter, less allowable deductions, shall be sent to the department by the 10th day of the month following receipt.

CHAPTER 5159. SPECIAL PERMITS

SUBCHAPTER A. PERMITS FOR TRAPPING, TRANSPORTING, AND TRANSPLANTING GAME ANIMALS OR GAME BIRDS

Revised Law

Sec. 5159.0101. TRAPPING, TRANSPORTING, AND TRANSPLANTING GAME ANIMALS OR GAME BIRDS; PERMIT REQUIRED. (a) A person may not capture, transport, or transplant a game animal or game bird from the wild in this state unless the person holds a permit to trap, transport, and transplant issued by the department.

(b) The department may issue a permit to trap, transport, and transplant game animals or game birds from the wild to adjust game populations for better wildlife management. The department may issue the permit only if recommended by separate department-approved wildlife stocking plans for both the origin and the destination of the game animals or game birds.

(c) The holder of a permit issued under this section shall comply with the conditions listed on the permit, including conditions designed to minimize stress and maximize the humane treatment of trapped or transplanted animals and to minimize human health and safety risks.

(d) The state is not liable for and may not incur any expense for the trapping, transporting, and transplanting of game animals or game birds under a permit issued under this section.

(e) The commission by rule may set fees for review of permit applications or other department actions necessary to implement this section. An applicant for a permit authorizing the trapping, transporting, and transplanting of squirrels that are causing damage to personal property is exempt from the payment of the fee.

(f) This section does not apply to:

(1) a game animal or game bird possessed or propagated under a license or permit issued for that activity under another section of this code; or

(2) an activity conducted under a permit issued under Section 5159.0102. (Parks & Wild. Code, Secs. 43.061(a), (b), (c),

(d), (e), (f).)

Source Law

Sec. 43.061. TRAPPING, TRANSPORTING, AND TRANSPLANTING GAME ANIMALS AND GAME BIRDS; PERMIT REQUIRED. (a) No person may capture, transport, or transplant any game animal or game bird from the wild in this state unless that person has obtained a permit to trap, transport, and transplant from the department.

(b) The department may issue permits for trapping, transporting, and transplanting game animals or game birds from the wild to allow adjustments in game populations for better wildlife management. The permits may be issued only if recommended by separate wildlife stocking plans approved by the department for both the origin and the destination of the game animals or game birds.

(c) The state is not liable for and may not incur any expense for the trapping, transporting, and transplanting of game animals and game birds under a permit issued under this section.

(d) A person receiving a permit under this section commits an offense if that person does not comply with the conditions listed on the permit, including conditions designed to minimize stress and maximize the humane treatment of trapped or transplanted animals and to minimize human health and safety risks.

(e) This section does not apply to any game animals or game birds that are possessed or propagated under a license or permit issued for that activity under another section of this code or to an activity conducted under a permit issued under Section 43.0611.

(f) The commission by rule may set fees for review of permit applications or other department actions necessary to implement this section. If the permit authorizes the applicant to trap, transport, and transplant squirrels that are causing damage to personal property, the applicant is exempt from the payment of the fee.

Revisor's Note

Section 43.061(d), Parks and Wildlife Code, provides that a person commits an offense if the person does not comply with the conditions of a permit to trap, transport, and transplant game animals or game birds from the wild. For clarity, the revised law restates the provision as an affirmative duty to comply with the permit conditions rather than a prohibition on not complying with the permit conditions but omits the portion of the provision creating an offense because it duplicates in substance Section 43.062, Parks and Wildlife Code, revised as

Section 5159.0105, which creates an offense for violating any provision of Subchapter E, Chapter 43, of that code.

Revised Law

Sec. 5159.0102. URBAN WHITE-TAILED DEER REMOVAL PERMIT. (a) The department may issue to an individual an urban white-tailed deer removal permit for the trapping, transporting, and transplanting of white-tailed deer if the individual shows to the department's satisfaction that:

(1) there is an overpopulation of the deer in an area where deer hunting is inadequate, because of human health or safety concerns, to maintain a balanced deer population;

(2) the deer will be removed and transplanted to an area of adaptable natural habitat capable of sustaining the additional deer without exceeding the habitat capacity; and

(3) the deer will be subject to lawful hunting after transplant.

(b) The department may establish times when only department staff may trap, transport, or transplant deer under this section.

(c) An urban white-tailed deer removal permit holder shall comply with conditions listed on the permit, including conditions designed to minimize stress and maximize the humane treatment of trapped or transplanted animals and that minimize human health and safety risks.

(d) The state is not liable for and may not incur any expense for the trapping, transporting, and transplanting of white-tailed deer under an urban white-tailed deer removal permit.

(e) An urban white-tailed deer removal permit does not entitle a person to take, trap, or possess white-tailed deer on privately owned land without the landowner's written permission.

(f) The commission by rule may set fees for review of permit applications or other department actions necessary to implement this section. An applicant for a permit authorizing the removal of white-tailed deer only from property owned by a political

subdivision or institution of higher education of this state is exempt from the payment of the fee.

(g) The commission shall adopt rules for fees, applications, and activities, including limitations on the times of the activities, relating to urban white-tailed deer removal permits. (Parks & Wild. Code, Sec. 43.0611.)

Source Law

Sec. 43.0611. URBAN WHITE-TAILED DEER REMOVAL; PERMIT REQUIRED. (a) The department may issue to an individual an urban white-tailed deer removal permit for the trapping, transporting, and transplanting of white-tailed deer if the individual shows to the department's satisfaction that:

(1) there is an overpopulation of the deer in an area where deer hunting is inadequate, because of human health or safety concerns, for maintaining a balanced population of deer;

(2) the deer will be removed and transplanted to an area of adaptable natural habitat capable of sustaining the additional deer without exceeding the capacity of the habitat; and

(3) the deer will be subject to lawful hunting after the relocation.

(b) The state is not liable for and may not incur any expense for the trapping, transporting, and transplanting of white-tailed deer under a permit issued under this section.

(c) The commission by rule may set fees for review of permit applications or other department actions necessary to implement this section. If the permit authorizes the applicant to remove white-tailed deer only from property owned by a political subdivision or institution of higher education of this state, the applicant is exempt from the payment of the fee.

(d) A person holding a permit issued under this section commits an offense if that person does not comply with conditions listed on the permit, including conditions designed to minimize stress and maximize the humane treatment of trapped or transplanted animals and that minimize human health and safety risks.

(e) The department may establish times when only department staff may trap, transport, or transplant deer under this section.

(f) Permits issued under this section do not entitle a person to take, trap, or possess white-tailed deer on any privately owned land without the landowner's written permission.

(g) The commission shall adopt rules for fees, applications, and activities, including limitations on the times of the activities, relating to permits for trapping, transporting, or transplanting white-tailed deer.

Revisor's Note

(1) Section 43.0611(d), Parks and Wildlife Code, provides that an urban white-tailed deer removal

permit holder commits an offense if the person does not comply with the permit conditions. For clarity, the revised law restates the provision as an affirmative duty to comply with the permit conditions rather than a prohibition on not complying with the permit conditions but omits the portion of the provision creating an offense for the reason stated in the revisor's note to Section 5159.0101.

(2) Section 43.0611(a)(3), Parks and Wildlife Code, refers to "relocation" of deer. The revised law substitutes "transplant" for "relocation" for consistency in terminology used in this subchapter and because, in this context, the terms are synonymous and "transplant" is more commonly used.

Revised Law

Sec. 5159.0103. PERMIT TO TRAP AND TRANSPORT SURPLUS WHITE-TAILED DEER. (a) In this section:

(1) "Property owners' association" has the meaning assigned by Section 202.001, Property Code.

(2) "Qualified individual" means an individual for whom the department has approved a wildlife management plan.

(b) The department may issue to a qualified individual, political subdivision, or property owners' association a permit authorizing the trapping and transporting of surplus white-tailed deer found on the property owned by the qualified individual or within the boundaries of the political subdivision or the geographic area in which property subject to the property owners' association is located, as applicable.

(c) Not later than the 30th day before the date of the first planned trapping and transporting of white-tailed deer, a qualified individual, political subdivision, or property owners' association must submit to the department an application for a permit under this section showing that an overpopulation of white-tailed deer exists on the property owned by the qualified individual or within the

boundaries of the political subdivision or the geographic area in which property subject to the property owners' association is located, as applicable.

(d) After receipt of the application, the department may issue to the qualified individual, political subdivision, or property owners' association a permit specifying:

(1) the location to which trapped white-tailed deer must be transported; and

(2) the purpose for which the trapped deer are to be used.

(e) A permit issued under this section must contain specific instructions detailing the location to which the trapped white-tailed deer are to be transported or transplanted.

(f) Except as provided by Subsection (h), the department may deny a qualified individual, political subdivision, or property owners' association a permit under this section if a suitable destination for the trapped white-tailed deer does not exist.

(g) Except as provided by Subsection (h), a permit issued under this section may authorize a qualified individual, political subdivision, or property owners' association to trap and transport white-tailed deer only during a period that begins October 1 of a year and ends March 31 of the following year.

(h) If white-tailed deer found on the property owned by a qualified individual or within the boundaries of a political subdivision or the geographic area in which property subject to a property owners' association is located, as applicable, pose a threat to human health or safety:

(1) the department may not deny a permit under Subsection (f); and

(2) the permit may authorize the qualified individual, political subdivision, or property owners' association to trap and transport white-tailed deer at any time of the year.

(i) A qualified individual, political subdivision, or property owners' association that traps and transports

white-tailed deer under this section shall make reasonable efforts to ensure:

(1) safe and humane handling of trapped white-tailed deer; and

(2) minimization of human health and safety hazards in every phase of the trapping and transporting of white-tailed deer.

(j) A permit issued under this section does not entitle a person to take, trap, or possess white-tailed deer found on privately owned land of another person without the landowner's written permission.

(k) The state is not liable for and may not incur any expense for the trapping and transporting of white-tailed deer under a permit issued under this section.

(l) The department may not charge a fee for a white-tailed deer trapping and transporting permit issued under this section.

(m) The commission:

(1) shall adopt rules for determining the circumstances under which a qualified individual, political subdivision, or property owners' association may obtain a permit under this section; and

(2) may adopt rules necessary to implement this section, including rules:

(A) enhancing the opportunity to relocate overpopulation of urban deer; and

(B) relating to required notification, record-keeping, permit conditions, and the disposition of trapped white-tailed deer. (Parks & Wild. Code, Sec. 43.0612.)

Source Law

Sec. 43.0612. TRAPPING AND TRANSPORTING SURPLUS WHITE-TAILED DEER; PERMIT REQUIRED. (a) In this section:

(1) "Property owners' association" has the meaning assigned by Section 202.001, Property Code.

(2) "Qualified individual" means an individual who has a wildlife management plan approved by the department.

(b) The department may issue to a qualified individual, a political subdivision, or a property owners' association a permit authorizing the trapping

and transporting of surplus white-tailed deer found on the property owned by the qualified individual or within the boundaries of the political subdivision or the geographic area in which property subject to the property owners' association is located.

(c) Not later than the 30th day before the date of the first planned trapping and transporting of white-tailed deer, a qualified individual, a political subdivision, or a property owners' association shall file with the department an application showing that an overpopulation of white-tailed deer exists on the property owned by the qualified individual or within the boundaries of the political subdivision or the geographic area in which property subject to the property owners' association is located. If the department issues a permit to a requesting qualified individual, political subdivision, or property owners' association, the permit shall contain specific instructions detailing the location to which the trapped white-tailed deer are to be transported or transplanted.

(d) After receipt of an application, the department may issue to the qualified individual, political subdivision, or property owners' association a permit specifying:

(1) the location to which trapped white-tailed deer must be transported; and

(2) the purpose for which the trapped deer are to be used.

(e) The department may deny a qualified individual, a political subdivision, or a property owners' association a permit if no suitable destination for the trapped white-tailed deer exists.

(f) A qualified individual, a political subdivision, or a property owners' association trapping and transporting white-tailed deer under this section must make reasonable efforts to ensure:

(1) safe and humane handling of trapped white-tailed deer; and

(2) minimization of human health and safety hazards in every phase of the trapping and transporting of white-tailed deer.

(g) A permit issued under this section may authorize a qualified individual, a political subdivision, or a property owners' association to trap and transport white-tailed deer only between October 1 of a year and March 31 of the following year, unless white-tailed deer found on the property owned by the qualified individual or within the boundaries of the political subdivision or the geographic area in which property subject to the property owners' association is located pose a threat to human health or safety, in which case the provision of Subsection (e) does not apply and a permit may authorize the qualified individual, political subdivision, or property owners' association to trap and transport white-tailed deer at any time of the year.

(h) A permit issued under this section does not entitle a person to take, trap, or possess white-tailed deer found on any privately owned land without the landowner's written permission, unless the permit holder is the landowner.

(i) The state is not liable for and may not incur any expense for the trapping and transporting of white-tailed deer under a permit issued under this section.

(j) The department may not charge a fee for a white-tailed deer trapping and transporting permit

issued under this section.

(k) The commission may adopt rules necessary for the implementation of this chapter, including rules which enhance the opportunity to relocate overpopulation of urban deer and relating to required notification, record-keeping, permit conditions, and the disposition of trapped white-tailed deer. The commission shall adopt rules for determining the circumstances under which a qualified individual, political subdivision, or property owners' association may obtain a permit issued under this section.

Revisor's Note

Section 43.0612(k), Parks and Wildlife Code, authorizes the Parks and Wildlife Commission to adopt rules necessary for the implementation of "this chapter." The revised law substitutes "this section" for "this chapter" because it is clear from the context that "chapter" is a drafting error and the rules authorized by Subsection (k) of that section are rules necessary for the implementation of only that section.

Revised Law

Sec. 5159.0104. COMMISSION RULES. The commission shall adopt rules for the content of wildlife stocking plans, the certification of wildlife trappers, and the trapping, transporting, and transplanting of game animals and game birds under this subchapter. (Parks & Wild. Code, Sec. 43.061(g).)

Source Law

(g) The commission shall adopt rules for the content of wildlife stocking plans, certification of wildlife trappers, and the trapping, transporting, and transplanting of game animals and game birds under this subchapter.

Revised Law

Sec. 5159.0105. CRIMINAL PENALTY. (a) A person commits an offense if the person violates:

(1) this subchapter;

(2) the terms of a permit issued under this subchapter; or

(3) a rule relating to a reporting requirement for a permit issued under this subchapter.

(b) Except as provided by Subsection (c), an offense under

this section is a Class B Parks and Wildlife Code misdemeanor.

(c) An offense under this section is a Class C Parks and Wildlife Code misdemeanor if the offense is for a violation of:

(1) Subsection (a)(2), if the violated permit term relates to a reporting requirement; or

(2) Subsection (a)(3). (Parks & Wild. Code, Sec. 43.062.)

Source Law

> Sec. 43.062. PENALTY. (a) Except as provided by Subsection (b), a person who violates any provision of this subchapter or the terms of a permit issued under this subchapter commits an offense that is a Class B Parks and Wildlife Code misdemeanor.
>
> (b) A person commits an offense that is a Class C Parks and Wildlife Code misdemeanor if the person violates:
>
> (1) a rule relating to a reporting requirement for a permit issued under this subchapter; or
>
> (2) a term of a permit issued under this subchapter that relates to a reporting requirement.

SUBCHAPTER B. DEER BREEDER'S PERMIT

Revised Law

Sec. 5159.0201. DEFINITIONS. In this subchapter:

(1) "Breeder deer" means a white-tailed deer or mule deer legally held under a permit authorized by this subchapter.

(2) "Captivity" means, with respect to a breeder deer, the state of being kept in an enclosure suitable for and capable of retaining the breeder deer it is designed to retain at all times under reasonable and ordinary circumstances and preventing entry by another deer. The term includes the temporary keeping of a breeder deer in a vehicle or trailer.

(3) "Immediate locality" means land that is contiguous and owned by the same person. For purposes of this subdivision, land divided or separated only by a public road or public waterway is contiguous.

(4) "Transfer" means movement of breeder deer from a breeder facility, nursing facility, or deer management permit facility other than to an accredited veterinarian for medical purposes. (Parks & Wild. Code, Secs. 43.351(1), (3), (6), (7).)

Source Law

Sec. 43.351. DEFINITIONS. In this subchapter:

(1) "Breeder deer" means a white-tailed deer or mule deer legally held under a permit authorized by this subchapter.

(3) "Captivity" means the keeping of a breeder deer in an enclosure suitable for and capable of retaining the breeder deer it is designed to retain at all times under reasonable and ordinary circumstances and to prevent entry by another deer. The term includes the temporary keeping of a breeder deer in a vehicle or trailer.

(6) "Immediate locality" means land that is contiguous and that is owned by the same person. For purposes of this subdivision, land divided or separated only by a public road or a public waterway is contiguous.

(7) "Transfer" means any movement of breeder deer from a breeder facility, a nursing facility, or a deer management permit facility other than to an accredited veterinarian for medical purposes.

Revisor's Note

(1) Section 43.351(2), Parks and Wildlife Code, defines "deer breeder" as a person holding a valid deer breeder's permit. The revised law omits the definition and, throughout this subchapter, substitutes the substance of the definition for references to "deer breeder" for consistency in terminology used in this code to refer to a person who holds a particular permit. The omitted law reads:

> (2) "Deer breeder" means a person holding a valid deer breeder's permit.

(2) Section 43.351(4), Parks and Wildlife Code, defines "deer" as "a white-tailed deer or mule deer." For clarity, the revised law omits the definition of the term and, throughout this subchapter, substitutes the substance of the definition for the term in relevant instances where the term appears. The omitted law reads:

> (4) "Deer" means a white-tailed deer or mule deer.

Revised Law

Sec. 5159.0202. APPLICABILITY OF OTHER LAW. (a) A breeder deer and increase from the breeder deer are under the full force of the laws of this state pertaining to white-tailed deer and mule deer.

(b) To preserve native species, a breeder deer held under a deer breeder's permit is subject to all laws and regulations of this state pertaining to white-tailed deer or mule deer except as specifically provided by this subchapter. (Parks & Wild. Code, Secs. 43.364 (part), 43.366(a).)

Source Law

> Sec. 43.364. . . . All breeder deer and increase from breeder deer are under the full force of the laws of this state pertaining to deer, and . . . .
>
> Sec. 43.366. APPLICATION OF OTHER LAWS. (a) In order that native species may be preserved, breeder deer held under a deer breeder's permit are subject to all laws and regulations of this state pertaining to deer except as specifically provided in this subchapter.

Revised Law

Sec. 5159.0203. DEER BREEDER'S PERMIT. The department shall issue to a qualified person a permit authorizing the possession of live breeder deer in captivity. (Parks & Wild. Code, Sec. 43.352(a).)

Source Law

> Sec. 43.352. PERMIT AUTHORIZED; DURATION OF PERMIT. (a) The department shall issue a permit to a qualified person to possess live breeder deer in captivity.

Revised Law

Sec. 5159.0204. PERMIT TERM. (a) Subject to Subsection (b), the department may issue a deer breeder's permit that is valid for one year, three years, or five years, at the option of the person applying for the issuance or renewal of the permit.

(b) The department may issue a three-year or five-year deer breeder's permit only to a person who:

(1) has held a deer breeder's permit for the three consecutive permit years immediately preceding the date of the

application for a three-year or five-year permit;

(2) agrees to electronically submit the annual reports required under this subchapter; and

(3) meets any other criteria established by commission rule.

(c) The commission by rule may allow the department to revoke a three-year or five-year deer breeder's permit before the permit's specified expiration date if the permit holder fails to electronically submit the annual reports as required. (Parks & Wild. Code, Secs. 43.352(b), (c), (d).)

Source Law

> (b) At the option of the person applying for the issuance or renewal of a permit under this section, the department may issue a permit that is valid for one year, three years, or five years.
>
> (c) A three-year or five-year permit is available only to a person who:
>
> (1) has held a deer breeder's permit for the three consecutive permit years immediately preceding the date of the application for a three-year or five-year permit;
>
> (2) agrees to submit the annual reports required under this subchapter electronically; and
>
> (3) meets any other criteria established by rule of the commission.
>
> (d) The commission may adopt rules allowing the department to revoke a three-year or five-year permit before the date specified for expiration of the permit if the permit holder fails to submit the annual reports electronically as required.

Revised Law

Sec. 5159.0205. PERMIT PRIVILEGES. (a) A deer breeder's permit holder may:

(1) engage in the business of breeding breeder deer in the immediate locality for which the permit was issued; and

(2) sell, transfer to another person, or hold in captivity live breeder deer for the purpose of propagation or sale.

(b) A deer breeder's permit holder, the permit holder's authorized agent, or an assistant acting under the direction of the permit holder or authorized agent may capture a breeder deer held in a permitted facility for:

(1) removal from an enclosure;

(2) veterinary treatment;

(3) tagging;

(4) euthanasia for the purpose of:

(A) humanely dispatching the breeder deer; or

(B) conducting a test for a reportable disease as required by law; or

(5) any other purpose required or allowed by law. (Parks & Wild. Code, Secs. 43.357(a), (a-1).)

Source Law

Sec. 43.357. PERMIT PRIVILEGES; REGULATIONS. (a) The holder of a valid deer breeder's permit may:

(1) engage in the business of breeding breeder deer in the immediate locality for which the permit was issued; and

(2) sell, transfer to another person, or hold in captivity live breeder deer for the purpose of propagation or sale.

(a-1) A deer breeder, a deer breeder's authorized agent, or an assistant who is not a permittee under this subchapter but is acting under the direction of a deer breeder or a deer breeder's authorized agent may capture a breeder deer held in a permitted facility for:

(1) removal from an enclosure;

(2) veterinary treatment;

(3) tagging;

(4) euthanasia for the purpose of:

(A) humane dispatch of the breeder deer; or

(B) the conduct of a test for a reportable disease as required by law; or

(5) any other purpose required or allowed by law.

Revisor's Note

Section 43.357(a), Parks and Wildlife Code, refers to a "valid deer breeder's permit." Throughout this subchapter, the revised law omits "valid" from the quoted language for the reasons stated in the revisor's note to Section 5101.0602.

Revised Law

Sec. 5159.0206. SERIAL NUMBER. (a) The department shall issue a serial number to a deer breeder's permit holder when the department issues a deer breeder's permit to the permit holder.

(b) On issuance of a subsequent deer breeder's permit to a deer breeder's permit holder, the department shall assign the same serial number to the permit holder. (Parks & Wild. Code, Sec.

43.356.)

Source Law

> Sec. 43.356. SERIAL NUMBER. The department shall issue a serial number to a permittee when the department issues the permittee a deer breeder's permit. The same serial number shall be assigned to the permittee if the department issues the permittee a subsequent deer breeder's permit.

Revised Law

Sec. 5159.0207. IDENTIFICATION OF BREEDER DEER. (a) In this section:

(1) "Button back" means the portion of an identification tag used to secure the tag to a breeder deer.

(2) "Electronic identification device" means a button tag or implant that uses radio frequency identification technology.

(b) The department shall assign a unique identifier consisting of five alphanumeric characters to each breeder deer.

(c) Not later than March 31 of the year following the year in which a breeder deer is born, the breeder deer must be identified by:

(1) attaching an identification tag that meets the requirements of this section to the pinna of either ear of the breeder deer so that the face of the tag is clearly visible on the anterior side of the ear; and

(2) applying a single electronic identification device.

(d) A breeder deer born before January 1, 2022, may be identified as described by Subsection (e) or (i). A breeder deer born on or after January 1, 2022, must be identified first as described by Subsection (e) before the breeder deer may be identified as described by Subsection (i).

(e) Except for a replacement identification tag described by Subsection (i), an identification tag attached under Subsection (c)(1):

(1) must:

(A) be commercially manufactured;

(B) bear on the face and button back the unique identifier assigned under Subsection (b) to the breeder deer to which it is attached in text placed by the manufacturer with characters on the face not less than 5/16 inch wide and 1/2 inch tall and spaced not less than 1/16 inch apart;

(C) be securely attached so as not to be dislodged or removed easily;

(D) be made of a material that is not likely to disintegrate or decompose; and

(E) have sufficient contrast between the color of the text and the color of the tag to make the text characters clearly visible; and

(2) may bear additional information, provided that a dividing line placed by the manufacturer below the unique identifier separates the unique identifier from the additional information.

(f) The text of the unique identifier may be larger than the dimensions described by Subsection (e)(1)(B) but must maintain the same proportion of height and width.

(g) An electronic identification device applied under Subsection (c)(2) must be approved by the United States Department of Agriculture and have an associated 15-digit animal identification number that begins with 840. If the electronic identification device is a button tag, the button tag must be attached to the pinna of either ear of the breeder deer. If the electronic identification device is an implant, the implant may not be implanted in edible muscle.

(h) The department shall create and maintain a database of the electronic identification device numbers entered by deer breeder's permit holders. An electronic identification device applied to a breeder deer under Subsection (c)(2) is valid for purposes of Subsection (c) only if the number associated with the device has been entered into the department database and corresponds with the unique identifier assigned under Subsection

(b) to the breeder deer. In making a determination to destroy a deer under Chapter 5206, the department shall consider an electronic identification device that meets the requirements of this section as evidence of positive identification for a breeder deer that cannot be identified by either the identification tag required by Subsection (c) or the tattoo required by Subsection (l), provided that the deer breeder's permit holder entered the electronic identification device number into the database before the identity of the breeder deer was in question as determined by the department.

(i) If an identification tag attached under Subsection (c)(1) has been dislodged, damaged, or removed by means other than human agency, to the extent that the identification tag does not meet the requirements of Subsections (c)(1) and (e), the deer breeder's permit holder shall immediately replace the identification tag with:

(1) an identification tag that meets the requirements of Subsections (c)(1) and (e); or

(2) a replacement identification tag, created and attached by the permit holder, that:

(A) is clearly visible;

(B) has legible text written with a tag pen manufactured for use with the tag; and

(C) meets the requirements of Subsections (c)(1) and (e), except for the requirement that the text be placed on the tag by the manufacturer.

(j) A deer breeder's permit holder is not required to remove an identification tag for any purpose but may remove the tag and replace the tag immediately to meet the requirements of this section.

(k) A person may not remove an electronic identification device applied to a breeder deer under Subsection (c)(2).

(l) A person may not remove or knowingly permit the removal of a breeder deer held in a facility by a person who holds a permit

under this subchapter unless the breeder deer has been identified by applying a tattoo to the inner portion of either ear of the deer that:

(1) is made with commercially available #300 or 5/16 inch tattoo letters and numbers;

(2) is legible, permanent, and green or black; and

(3) bears the unique identifier printed on the identification tag attached to the deer under Subsection (c)(1).

(m) A person may not knowingly accept or permit the acceptance of a breeder deer into a facility regulated under this subchapter unless the breeder deer has been identified as required by this section. (Parks & Wild. Code, Sec. 43.3561.)

Source Law

Sec. 43.3561. IDENTIFICATION OF BREEDER DEER. (a) In this section:

(1) "Button back" means the portion of an identification tag used to secure the tag to the breeder deer.

(2) "Electronic identification device" means a button tag or implant that uses radio frequency identification technology.

(3) "Identification tag" means a tag attached to the ear of a breeder deer for the purposes of identification that meets the requirements of this section.

(4) "Unique identifier" means five alphanumeric characters assigned by the department to uniquely identify a breeder deer.

(b) Not later than March 31 of the year following the year in which a breeder deer is born, the breeder deer must be identified by:

(1) attaching an identification tag to the pinna of either ear of the breeder deer in a manner so that the face of the tag is clearly visible on the anterior side of the ear; and

(2) applying a single electronic identification device.

(c) Except for a replacement identification tag described by Subsection (h), an identification tag applied under Subsection (b):

(1) must:

(A) be commercially manufactured;

(B) bear on the face and button back the unique identifier for the breeder deer to which it is attached in text placed by the manufacturer with characters on the face not less than 5/16 inch wide and 1/2 inch tall and spaced not less than 1/16 inch apart;

(C) be securely affixed so as not to be dislodged or removed easily;

(D) be made of a material that is not likely to disintegrate or decompose; and

(E) have sufficient contrast between the color of the text and the color of the tag to make the text characters clearly visible; and

(2) may bear additional information, provided that a dividing line placed by the manufacturer below the unique identifier separates the unique identifier from the additional information.

(d) The text of the unique identifier may be larger than the dimensions described by Subsection (c)(1)(B) but must maintain the same proportion of height and width.

(e) A breeder deer born before January 1, 2022, may be identified as described by Subsection (c) or (h). A breeder deer born on or after January 1, 2022, must be identified first as described by Subsection (c) before the breeder deer may be identified as described by Subsection (h).

(f) An electronic identification device applied under Subsection (b)(2) must be approved by the United States Department of Agriculture and have an associated 15-digit animal identification number that begins with 840. If the electronic identification device is a button tag, the button tag must be attached to the pinna of either ear of the breeder deer. If the electronic identification device is an implant, the implant may not be implanted in edible muscle. No person may remove an electronic identification device.

(g) The department shall create and maintain a database containing electronic identification device numbers entered by deer breeders. An electronic identification device applied under Subsection (b)(2) is valid for purposes of Subsection (b) only if the number associated with the device has been entered into the department database and corresponds with the unique identifier assigned to the breeder deer to or in which the device is attached or implanted. In making a determination to destroy a deer under Section 43.953, the department shall consider an electronic identification device that meets the requirements of this section as evidence of positive identification for a breeder deer that cannot be identified by either the identification tag or tattoo required by Subsection (b) or (j), provided that the deer breeder entered the electronic identification device number into the database before the identity of the breeder deer was in question as determined by the department.

(h) A deer breeder immediately shall replace an identification tag that has been dislodged, damaged, or removed by means other than human agency to the extent that the identification tag does not meet the requirements of Subsections (b) and (c) with another identification tag that meets the requirements of Subsections (b) and (c), except that a deer breeder may create and attach a replacement identification tag. A replacement identification tag must:

(1) be clearly visible;

(2) have legible text written with a tag pen manufactured for use with the tag; and

(3) meet the requirements of Subsections (b)(1) and (c), except for the requirement that the text be placed on the tag by the manufacturer.

(i) A deer breeder is not required to remove the tag for any purpose but may remove the tag and replace the tag immediately to meet the requirements of this section.

(j) A person may not remove or knowingly permit the removal of a breeder deer held in a facility by a permittee under this subchapter unless the breeder deer has been identified by applying a tattoo to the inner portion of either ear of the deer that:

(1) is made with commercially available

#300 or 5/16 inch tattoo letters and numbers;

(2) is legible, permanent, and green or black; and

(3) bears the same unique identifier printed on the identification tag attached to the deer under Subsection (c).

(k) A person may not knowingly accept or permit the acceptance of a breeder deer into a facility regulated under this subchapter unless the breeder deer has been identified as required by this section.

Revisor's Note

(1) Section 43.3561(a)(3), Parks and Wildlife Code, defines the term "identification tag" for purposes of Section 43.3561 of that code. The revised law omits the definition and revises the substance of the definition as a substantive provision because the substance of the definition is more appropriately presented as requirements that the tag be attached to the deer's ear and that the tag meet other requirements of Section 43.3561.

(2) Section 43.3561(a)(4), Parks and Wildlife Code, defines the term "unique identifier" for purposes of Section 43.3561 of that code. The revised law omits the definition and revises the substance of the definition as a substantive provision because the substance of the definition is more appropriately presented as a requirement that the Parks and Wildlife Department assign an alphanumeric identifier with certain characteristics to identify each breeder deer.

(3) Section 43.3561(c), Parks and Wildlife Code, refers to an identification tag "applied" to a breeder deer under Section 43.3561(b) of that code, and Section 43.3561(c)(1)(C) refers to an identification tag "affixed" to a breeder deer. For consistency in terminology used in this section, the revised law substitutes "attached" for "applied" and "affixed" because, in this context, the terms are synonymous and "attached" is the term used elsewhere in the section.

(4) Section 43.3561(j)(3), Parks and Wildlife Code, refers to the identification tag attached to a breeder deer under "Subsection (c)" of Section 43.3561 of that code. It is clear from the context of Section 43.3561 that the reference to "Subsection (c)" is a drafting error and that the legislature intended to refer to Subsection (b) of that section. Section 43.3561(b) is revised in pertinent part as Subsection (c)(1) of this section, and the revised law is drafted accordingly.

Revised Law

Sec. 5159.0208. USE OF BREEDER DEER. (a) A person may purchase, sell, transfer, or receive a breeder deer in this state only for purposes of release or holding for propagation.

(b) A person may hold a breeder deer in captivity for propagation in this state only after the department issues a deer breeder's permit to the person. (Parks & Wild. Code, Sec. 43.364 (part).)

Source Law

Sec. 43.364. USE OF BREEDER DEER. Breeder deer may be purchased, sold, transferred, or received in this state only for the purposes of liberation or holding for propagation. . . . those breeder deer may be held in captivity for propagation in this state only after a deer breeder's permit is issued by the department under this subchapter.

Revisor's Note

(1) Section 43.364, Parks and Wildlife Code, refers to "liberation" of breeder deer. Throughout this subchapter, the revised law substitutes "release" and "released" for "liberation" and "liberated," respectively, for the reasons stated in the revisor's note to Section 5157.0414.

(2) Section 43.364, Parks and Wildlife Code, refers to a deer breeder's permit issued by the department "under this subchapter." The revised law omits the quoted language because a deer breeder's

permit is not issued under any other provision of the Parks and Wildlife Code or any other code.

Revised Law

Sec. 5159.0209. TRANSFER, SALE, OR PURCHASE OF LIVE BREEDER DEER; TRANSFER PERMIT REQUIRED. (a) A deer breeder's permit holder may transfer, sell, barter, or exchange, or offer for transfer, sale, barter, or exchange, only a breeder deer that is in a healthy condition.

(b) Except as provided by Subchapter G or by commission rule adopted under this subchapter, a person may not transfer, sell, purchase, obtain, or accept in this state a live breeder deer unless the person holds a transfer permit issued by the department. (Parks & Wild. Code, Sec. 43.362.)

Source Law

> Sec. 43.362. TRANSFER, PURCHASE, OR SALE OF LIVE BREEDER DEER. (a) Only breeder deer that are in a healthy condition may be sold, transferred, bartered, or exchanged, or offered for sale, transfer, barter, or exchange, by a deer breeder.
>
> (b) Except as provided by Subchapter C or by a rule adopted by the commission under this subchapter, no person may purchase, obtain, sell, transfer, or accept in this state a live breeder deer unless the person obtains a transfer permit from the department.

Revised Law

Sec. 5159.0210. TRANSFER RESTRICTED DURING AND IMMEDIATELY BEFORE OPEN SEASON. (a) A person in this state may not sell, transfer, ship, or transport a breeder deer during an open hunting season for white-tailed deer or mule deer or during the 10-day period immediately preceding an open hunting season unless the person has:

(1) removed the antlers of the breeder deer between the G-3 tine, as defined by the Boone and Crockett Club, and the pedicel on each antler main beam; and

(2) followed any procedure prescribed by commission rule for the lawful conduct of activities under this subchapter.

(b) Subsection (a) does not apply to a sale, transfer, shipment, or transport to:

(1) another deer breeder's permit holder's facility; or

(2) an enclosure authorized under a deer management permit.

(c) The commission shall adopt rules governing a transfer permit under this section. (Parks & Wild. Code, Sec. 43.363.)

Source Law

Sec. 43.363. TRANSFER DURING OPEN SEASON. (a) During an open hunting season for deer or during the 10-day period immediately preceding an open hunting season, no person in this state may sell, transfer, ship, or transport a breeder deer unless the person:

(1) has removed the antlers of the breeder deer between the G-3 tine, as defined by the Boone and Crockett Club, and the pedicel on each antler main beam; and

(2) has followed any procedure prescribed by rule of the commission for the lawful conduct of activities under this subchapter.

(b) Subsection (a) does not apply to a sale, transfer, shipment, or transport:

(1) to another deer breeder's facility; or

(2) to an enclosure authorized under a deer management permit.

(c) The commission shall adopt rules governing a transfer permit under this section.

Revised Law

Sec. 5159.0211. ENCLOSURE SIZE. A single enclosure for breeder deer may not contain more than 100 acres. (Parks & Wild. Code, Sec. 43.360.)

Source Law

Sec. 43.360. ENCLOSURE SIZE. A single enclosure for breeder deer may not contain more than 100 acres.

Revised Law

Sec. 5159.0212. RELEASE SITES. (a) A release site onto which breeder deer are released must be surrounded by a fence not less than seven feet in height that is capable of retaining white-tailed deer and mule deer at all times under reasonable and ordinary circumstances.

(b) The owner of a release site shall ensure that the fence surrounding the release site and infrastructure associated with the fence are in a condition to retain white-tailed deer and mule deer as provided by Subsection (a).

(c) A person who holds a permit under this subchapter or receives a breeder deer under this subchapter is not required to have the release site inspected or approved before the release of a breeder deer from a breeding facility. This subsection does not preclude the department from making a habitat inspection, but the department may not implement habitat inspection rules or procedures that could unreasonably impede the broader deer breeding industry.

(d) Subsection (c) does not exempt a person from the requirements under:

(1) a deer management permit under Section 5159.0302;

(2) a trap, transport, and transplant permit under Section 5159.0101 or 5159.0102;

(3) a trap, transport, and process permit under Section 5159.0103; or

(4) an antlerless deer control permit regulated under 31 T.A.C. Section 65.25. (Parks & Wild. Code, Secs. 43.357(c), (d), 43.361.)

Source Law

[Sec. 43.357]

(c) A person who holds a permit under this subchapter or a person who receives a breeder deer under this subchapter is not required to have the release site inspected or approved before the release of a breeder deer from a breeding facility. This section does not preclude the department from making a habitat inspection but does direct the department to refrain from implementing habitat inspection rules or procedures that could unreasonably impede the broader deer breeding industry.

(d) Subsection (c) does not exempt a person from the requirements under the following permits issued by the department:

(1) managed land deer permit regulated under 31 T.A.C. Sections 65.26 and 65.34;

(2) deer management permit under Section 43.601;

(3) trap, transport, and transplant permit under Sections 43.061 and 43.0611;

(4) trap, transport, and process permit under Section 43.0612; and

(5) antlerless deer control permit regulated under 31 T.A.C. Sections 65.25 and 65.27.

Sec. 43.361. RELEASE SITES. (a) A release site onto which breeder deer are liberated must be surrounded by a fence not less than seven feet in height that is capable of retaining deer at all times under reasonable and ordinary circumstances.

(b) The owner of a release site is responsible

for ensuring that the fence surrounding the release site and infrastructure associated with the fence are in a condition to retain deer as provided by Subsection (a).

Revisor's Note

(1) Section 43.357(c), Parks and Wildlife Code, provides that certain persons are not required to have a site at which breeder deer are released inspected or approved before the release, and further provides that "[t]his section," meaning Section 43.357 of that code, does not preclude the Parks and Wildlife Department from making a habitat inspection. The pertinent part of Section 43.357 relating to the release of breeder deer or the inspection of a site or facility related to breeder deer is revised as Subsection (c) of this section, and the revised law is drafted accordingly.

(2) Section 43.357(d), Parks and Wildlife Code, refers to certain permits issued by the Parks and Wildlife Department, including a managed land deer permit regulated under 31 T.A.C. Sections 65.26 and 65.34 and an antlerless deer control permit regulated under 31 T.A.C. Sections 65.25 and 65.27. The revised law omits the references to permits regulated under 31 T.A.C. Sections 65.26, 65.27, and 65.34 because those sections have been repealed. See 41 Tex. Reg. 6052 (2016) and 42 Tex. Reg. 3398 (2017).

Revised Law

Sec. 5159.0213. RECORDS AND REPORTS. (a) A deer breeder's permit holder shall maintain an accurate and legible record of:

(1) all breeder deer acquired, purchased, propagated, sold, transferred, or disposed of; and

(2) any other information the department requires that reasonably relates to the regulation of deer breeder's permit holders.

(b) A deer breeder's permit holder shall report the information maintained under Subsection (a) to the department as

required by commission rule.

(c) On the request of a game warden acting within the scope of the game warden's authority, a deer breeder's permit holder shall make any information required under this subchapter for the two preceding reporting years available to:

(1) the game warden; or

(2) another authorized department employee. (Parks & Wild. Code, Sec. 43.359.)

Source Law

Sec. 43.359. RECORDS AND REPORTS. (a) A deer breeder shall maintain an accurate and legible record of all breeder deer acquired, purchased, propagated, sold, transferred, or disposed of and any other information required by the department that reasonably relates to the regulation of deer breeders.

(b) A deer breeder shall report the information maintained under Subsection (a) to the department as the commission by rule may require.

(c) On the request of a game warden acting within the scope of the game warden's authority, a deer breeder shall make any information required under this subchapter for the previous two reporting years available to:

(1) the game warden; or

(2) another authorized department employee.

Revised Law

Sec. 5159.0214. DEER BREEDER'S PERMIT HOLDER DATABASE. (a) In this section, "database" means a deer breeder's permit holder database used by the department.

(b) The department, in conjunction with the Texas Animal Health Commission, shall develop and maintain a database to be shared by both agencies. The database must include the reporting data each deer breeder's permit holder is required to provide to:

(1) the department under this subchapter; and

(2) the Texas Animal Health Commission.

(c) To the extent possible, the department and the Texas Animal Health Commission shall share the database to eliminate the need for a deer breeder's permit holder to submit duplicate reports to the two agencies.

(d) The Parks and Wildlife Commission and the Texas Animal Health Commission by rule shall provide incentives to deer

breeder's permit holders whose cooperation results in reduced costs and increased efficiency by offering:

(1) reduced fees for the deer breeder's permit; and

(2) a permit with an extended term.

(e) The Parks and Wildlife Commission and the Texas Animal Health Commission may adopt rules to implement this section. (Parks & Wild. Code, Sec. 43.369.)

Source Law

Sec. 43.369. DEER BREEDER DATABASE. (a) In this section, "database" means a deer breeder database used by the department.

(b) The department in conjunction with the Texas Animal Health Commission, not later than June 1, 2010, shall develop and maintain a process for a database to be shared by both agencies. The database must include the reporting data required to be provided by each deer breeder:

(1) to the department under this subchapter; and

(2) to the Texas Animal Health Commission.

(c) To the extent possible, the department and the Texas Animal Health Commission shall share the database to eliminate the need for a deer breeder to submit duplicate reports to the two agencies.

(d) The Parks and Wildlife Commission and the Texas Animal Health Commission, by rule, shall provide incentives to deer breeders whose cooperation results in reduced costs and increased efficiency by offering:

(1) reduced fees for the deer breeder permit; and

(2) a permit with an extended duration.

(e) The Parks and Wildlife Commission and the Texas Animal Health Commission may adopt rules to implement this section.

Revisor's Note

Section 43.369(b), Parks and Wildlife Code, requires the Parks and Wildlife Department, in conjunction with the Texas Animal Health Commission, to develop and maintain "a process for" a database to be shared by both agencies "not later than June 1, 2010." The department maintains the Texas Online Deer Breeder System as part of the Texas Wildlife Information Management Services program. The revised law omits "a process for" as unnecessary because it does not add to the clear meaning of the law. Additionally, the revised law omits "not later than

June 1, 2010" as executed.

Revised Law

Sec. 5159.0215. INSPECTION BY DEPARTMENT EMPLOYEE. An authorized department employee may inspect at any time and without warrant:

(1) any pen, coop, or other enclosure holding white-tailed deer or mule deer; or

(2) any records required to be maintained under Section 5159.0213(a). (Parks & Wild. Code, Sec. 43.358.)

Source Law

> Sec. 43.358. INSPECTION. An authorized employee of the department may inspect at any time and without warrant:
>
> (1) any pen, coop, or enclosure holding white-tailed deer or mule deer; or
>
> (2) any records required to be maintained under Section 43.359(a).

Revised Law

Sec. 5159.0216. NOTIFICATION OF DISEASE RISK; EFFECT OF GENETIC TESTING. (a) In this section, "genetic testing" means a laboratory analysis of a white-tailed deer's or mule deer's genes, gene products, or chromosomes that:

(1) analyzes the deer's deoxyribonucleic acid (DNA), ribonucleic acid (RNA), proteins, or chromosomes; and

(2) is performed to determine genetically the deer's ancestral lineage or descendants.

(b) After an inspection, the department shall notify a deer breeder's permit holder in writing when the department has reason to believe the permit holder possesses white-tailed deer or mule deer that may pose a disease risk to other white-tailed deer or mule deer. The notice must include an explanation of the rationale used to establish the disease risk.

(c) If genetic testing is timely conducted, the department must postpone any actions that may be affected by the test results until the test results are available.

(d) The results of genetic testing may not be used as evidence to establish a defense against a fine imposed on a deer

breeder's permit holder found guilty of failure to keep records of all white-tailed deer or mule deer in a deer breeder facility as required by this subchapter.

(e) The commission shall adopt rules as needed to implement this section. (Parks & Wild. Code, Sec. 43.3591.)

Source Law

Sec. 43.3591. GENETIC TESTING. (a) In this section:

(1) "DNA" means deoxyribonucleic acid.

(2) "Genetic test" means a laboratory analysis of a deer's genes, gene products, or chromosomes that:

(A) analyzes the deer's DNA, RNA, proteins, or chromosomes; and

(B) is performed to determine genetically the deer's ancestral lineage or descendants.

(3) "RNA" means ribonucleic acid.

(b) After an inspection, the department shall notify a deer breeder in writing when the department has reason to believe the deer breeder possesses deer that may pose a disease risk to other deer. The notice must include an explanation of the rationale used to establish the disease risk.

(c) If genetic testing is timely conducted, the department must postpone any actions that may be affected by the test results until the test results are available.

(d) The results of genetic testing may not be used as evidence to establish a defense against a fine imposed on a deer breeder found guilty of failure to keep records of all deer in a deer breeder facility as required by this subchapter.

(e) The commission shall adopt rules as needed to implement this section.

Revised Law

Sec. 5159.0217. COMMISSION REGULATIONS. The commission may adopt regulations governing:

(1) the possession of breeder deer held under this subchapter;

(2) the recapture of lawfully possessed breeder deer that have escaped from the facility of a deer breeder's permit holder;

(3) permit applications and fees;

(4) reporting requirements;

(5) procedures and requirements for the purchase, transfer, sale, or shipment of breeder deer;

(6) the endorsement of a deer breeder facility by a

certified wildlife biologist;

(7) the number of breeder deer that a deer breeder's permit holder may possess; and

(8) the period for which a deer breeder's permit is valid. (Parks & Wild. Code, Sec. 43.357(b).)

Source Law

(b) The commission may make regulations governing:

(1) the possession of breeder deer held under the authority of this subchapter;

(2) the recapture of lawfully possessed breeder deer that have escaped from the facility of a deer breeder;

(3) permit applications and fees;

(4) reporting requirements;

(5) procedures and requirements for the purchase, transfer, sale, or shipment of breeder deer;

(6) the endorsement of a deer breeder facility by a certified wildlife biologist;

(7) the number of breeder deer that a deer breeder may possess; and

(8) the dates for which a deer breeder permit is valid.

Revised Law

Sec. 5159.0218. PROHIBITED ACTS. A person may not:

(1) allow a breeder deer or any other white-tailed deer or mule deer held in captivity in a facility permitted under this subchapter to be hunted or killed, except as provided by this subchapter or a commission rule adopted under this subchapter; or

(2) knowingly sell, arrange the sale of, purchase, transfer, receive, or attempt to sell, arrange the sale of, purchase, transfer, or receive a live breeder deer in violation of this subchapter or a commission rule adopted under this subchapter. (Parks & Wild. Code, Sec. 43.365(a).)

Source Law

Sec. 43.365. PROHIBITED ACTS. (a) It is an offense if a deer breeder or another person:

(1) allows the hunting or killing of a breeder deer or any other deer held in captivity in a facility permitted under this subchapter, except as provided by this subchapter or a rule adopted by the commission under this subchapter; or

(2) knowingly sells, arranges the sale of, purchases, transfers, receives, or attempts to sell, arrange the sale of, purchase, transfer, or receive a live breeder deer in violation of this subchapter or a rule adopted by the commission under this subchapter.

Revisor's Note

(1) Section 43.365(a), Parks and Wildlife Code, provides that it is an offense for a deer breeder or another person to take certain actions. For clarity, the revised law restates the provision as a prohibition on taking those actions but omits the portion of the provision creating an offense because it duplicates in substance Section 43.367(a), Parks and Wildlife Code, revised in pertinent part as Section 5159.0220(a), which creates an offense for violating a provision of Subchapter L, Chapter 43, of that code.

(2) Section 43.365(b), Parks and Wildlife Code, provides that a deer breeder's permit holder commits an offense if the permit holder fails to provide to a game warden commissioned by the Parks and Wildlife Department or another authorized department employee records for the two preceding reporting years required to be maintained under Section 43.359(a) of that code. The revised law omits Section 43.365(b) because it duplicates in substance Section 43.359(c) of that code, revised as Section 5159.0213(c), which requires a deer breeder's permit holder to provide the records to a game warden or another authorized department employee on request, and because it duplicates in substance Section 43.367(a), Parks and Wildlife Code, as described by Revisor's Note (1) to this section. The omitted law reads:

> (b) It is an offense if a deer breeder fails to furnish to a game warden commissioned by the department or other authorized department employee records for the previous two reporting years required to be maintained under Section 43.359(a).

Revised Law

Sec. 5159.0219. HIGH FENCE NOT GENERALLY RESTRICTED OR

PROHIBITED. This subchapter may not be construed to restrict or prohibit the use of a high fence. (Parks & Wild. Code, Sec. 43.366(b).)

Source Law

(b) This subchapter may not be construed to restrict or prohibit the use of high fences.

Revised Law

Sec. 5159.0220. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter or a commission regulation adopted under this subchapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor, except that an offense for a violation of Section 5159.0218(1) is a Class A Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 43.367.)

Source Law

Sec. 43.367. PENALTY. (a) Except as provided by Subsection (b), a person who violates a provision of this subchapter or a regulation of the commission issued under this subchapter or who fails to file a full and complete report as required by Section 43.359 commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person who violates Section 43.365(a)(1) commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 43.367(a), Parks and Wildlife Code, creates an offense for violating a provision of Subchapter L, Chapter 43, of that code or for failing to file a full and complete report as required by Section 43.359. The revised law omits the provision creating an offense for failing to file a report as required by Section 43.359 as unnecessary because failing to file the report would constitute a violation of a provision of Subchapter L, Chapter 43.

Revised Law

Sec. 5159.0221. PERMIT IS DEFENSE. In a prosecution for the unlawful possession or transportation of white-tailed deer or mule deer, the possession of a permit issued under this subchapter to the

defendant is a complete defense if the conduct was authorized under the terms of the permit. (Parks & Wild. Code, Sec. 43.353.)

Source Law

> Sec. 43.353. PERMIT IS DEFENSE. In any prosecution for the unlawful possession or transportation of white-tailed deer or mule deer, the possession of a permit issued under this subchapter to the accused is a complete defense if the conduct was authorized under the terms of the permit.

Revisor's Note

Section 43.353, Parks and Wildlife Code, refers to the "accused" in the context of certain criminal prosecutions. For consistency in terminology used in this code, the revised law substitutes "defendant" for "accused" because, in this context, the terms are synonymous and "defendant" is more commonly used.

SUBCHAPTER C. WHITE-TAILED DEER MANAGEMENT PERMIT

Revised Law

Sec. 5159.0301. APPLICABILITY OF OTHER LAW. Except as expressly provided by this subchapter and the terms of a white-tailed deer management permit and white-tailed deer management plan, the general laws and regulations of this state applicable to white-tailed deer apply to deer on the acreage covered by the permit. (Parks & Wild. Code, Sec. 43.606 (part).)

Source Law

> Sec. 43.606. APPLICATION OF GENERAL LAWS. Except as expressly provided by this subchapter and the terms and conditions of the permit and management plan, the general laws and regulations of this state applicable to white-tailed deer apply to deer on the acreage covered by the permit. . . .

Revisor's Note

(1) Section 43.606, Parks and Wildlife Code, refers to the "terms and conditions" of the permit and management plan. The revised law omits "conditions" for the reason stated in the revisor's note to Section 5055.0105.

(2) Section 43.606, Parks and Wildlife Code, refers to "the permit and management plan." For

clarity, throughout this subchapter, the revised law substitutes "white-tailed deer management permit" for "permit" or "deer management permit" and substitutes "white-tailed deer management plan" for "management plan" or "deer management plan" because it is clear from the context of Subchapter R, Chapter 43, Parks and Wildlife Code, revised as this subchapter, that the type of deer managed under the referenced permit and plan are white-tailed deer.

Revised Law

Sec. 5159.0302. WHITE-TAILED DEER MANAGEMENT PERMIT. (a) The department may issue a permit for the management of the wild white-tailed deer population on acreage enclosed by a fence capable of:

(1) retaining white-tailed deer under reasonable and ordinary circumstances; and

(2) preventing entry by a white-tailed deer.

(b) The deer managed under a white-tailed deer management permit remain the property of the people of this state, and the permit holder is considered to be managing the population on behalf of this state.

(c) If the commission establishes a special season with a special bag limit for white-tailed deer management permit holders, a white-tailed deer management permit holder may not receive compensation for granting another person permission to kill a wild deer during that special season on the acreage covered by the permit. (Parks & Wild. Code, Sec. 43.601.)

Source Law

Sec. 43.601. PERMIT FOR DEER MANAGEMENT. (a) The department may issue a permit for the management of the wild white-tailed deer population on acreage enclosed by a fence capable of retaining white-tailed deer (under reasonable and ordinary circumstances) and capable of preventing entry by a white-tailed deer.

(b) The deer managed under the permit remain the property of the people of the state, and the holder of the permit is considered to be managing the population on behalf of the state.

(c) If a special season with a special bag limit

is established by the commission for holders of a deer management permit, the holder of the permit may not receive compensation for granting any other person permission to kill a wild deer during that special season on the acreage covered by the permit.

Revised Law

Sec. 5159.0303. PERMIT CONDITIONS. A white-tailed deer management permit is subject to conditions established by the commission, including conditions governing:

(1) the number of deer that may be killed on the acreage by a single person;

(2) the number and type of deer that may be killed or taken under the permit;

(3) the number and type of deer that may be temporarily detained in an enclosure; and

(4) the length of time that deer may be temporarily detained in an enclosure. (Parks & Wild. Code, Sec. 43.603(a).)

Source Law

Sec. 43.603. CONDITIONS; DURATION; FEE. (a) A permit issued under this subchapter is subject to conditions established by the commission, including conditions governing:

(1) the number of deer that may be killed on the property by a single person;

(2) the number and type of deer that may be killed or taken under the permit; and

(3) the number, type, and length of time that deer may be temporarily detained in an enclosure.

Revisor's Note

Section 43.603(a)(1), Parks and Wildlife Code, refers to the "property" covered by the permit. For consistency in terminology used in this subchapter, the revised law substitutes "acreage" for "property" because, in this context, the terms are synonymous and "acreage" is more commonly used.

Revised Law

Sec. 5159.0304. PERMIT TERM. A white-tailed deer management permit is valid for a period prescribed by the department of not less than one year. (Parks & Wild. Code, Sec. 43.603(b).)

Source Law

(b) The permit is valid for a period prescribed by the department of not less than one year.

Revised Law

Sec. 5159.0305. PERMIT FEE. The department shall set a fee for the issuance or renewal of a white-tailed deer management permit in an amount not to exceed $1,000. (Parks & Wild. Code, Sec. 43.603(c).)

Source Law

(c) The department shall set a fee for the issuance or renewal of a permit in an amount not to exceed $1,000.

Revised Law

Sec. 5159.0306. WHITE-TAILED DEER MANAGEMENT PLAN. (a) A white-tailed deer management permit holder annually must submit a white-tailed deer management plan for the department's approval or disapproval.

(b) The white-tailed deer management plan must provide for specific management practices to be applied to the deer population on the acreage covered by the white-tailed deer management permit, which may include:

(1) temporarily detaining wild white-tailed deer in an enclosure on the acreage for the purpose of propagation with other wild deer, and releasing those deer on the acreage; or

(2) killing wild deer:

(A) in open seasons established by the commission in a number set in the plan; or

(B) during a special season with a special bag limit established by the commission for the permit.

(c) To be approved by the department, the white-tailed deer management plan must be consistent with the commission's regulatory responsibilities under Chapter 5101.

(d) The white-tailed deer management plan may not authorize the killing of wild deer within an enclosure designed for temporary detention of wild deer under Subsection (b)(1). (Parks & Wild.

Code, Sec. 43.602.)

Source Law

Sec. 43.602. MANAGEMENT PLAN. (a) The holder of a deer management permit must annually submit a deer management plan for approval or disapproval of the department. The management plan must provide for specific management practices to be applied to the deer population on the acreage, which may include, in addition to other practices:

(1) the temporary detention within an enclosure on the acreage covered by the permit of wild white-tailed deer for the purpose of propagation with other wild deer, and the release of those deer on that acreage;

(2) the killing of wild deer in open seasons established by the commission in a number set in the management plan; or

(3) the killing of wild deer during a special season having a special bag limit established by the commission for this permit.

(b) A management plan approved by the department must be consistent with the regulatory responsibilities of the commission under Chapter 61.

(c) A management plan may not authorize the killing of wild deer within an enclosure designed for the temporary detention of wild deer under Subsection (a)(1).

Revisor's Note

Section 43.602(a), Parks and Wildlife Code, provides that a white-tailed deer management plan "may include, in addition to other practices[,]" a number of specific management practices to be applied to a deer population covered by the plan. Throughout this chapter, in this and similar contexts, the revised law omits "in addition to other practices" for the reasons stated in Revisor's Note (1) to Section 5103.0202.

Revised Law

Sec. 5159.0307. RECORDS. A white-tailed deer management permit holder shall maintain, in a form prescribed by the department, an accurate record of:

(1) the number of white-tailed deer taken during the general open seasons and during any special seasons;

(2) the number of white-tailed deer temporarily detained and released during the permit term; and

(3) any other information the department requires that reasonably relates to the activities covered by the permit. (Parks

& Wild. Code, Sec. 43.605.)

Source Law

Sec. 43.605. RECORDS. The holder of a permit issued under this subchapter shall maintain, in a form prescribed by the department, an accurate record showing:

(1) the number of white-tailed deer taken during the general open seasons and during any special seasons;

(2) the number of white-tailed deer temporarily detained and released during the permit period; and

(3) any other information required by the department that reasonably relates to the activities covered by the permit.

Revised Law

Sec. 5159.0308. INSPECTION BY DEPARTMENT EMPLOYEE. For the purpose of determining a white-tailed deer management permit holder's compliance with the white-tailed deer management plan approved under Section 5159.0306, an authorized department employee may inspect at any time without warrant:

(1) the records required by Section 5159.0307; and

(2) the acreage covered by the permit. (Parks & Wild. Code, Sec. 43.604.)

Source Law

Sec. 43.604. INSPECTION. An authorized employee of the department may inspect at any time without warrant the records required by Section 43.605 and the acreage for which the permit is issued for the purpose of determining the permit holder's compliance with the management plan.

Revisor's Note

Section 43.604, Parks and Wildlife Code, refers to "the management plan." It is clear from the context that the management plan referred to is the deer management plan approved under Section 43.602, Parks and Wildlife Code, revised as Section 5159.0306, and the revised law adds a reference to that section for the convenience of the reader.

Revised Law

Sec. 5159.0309. HIGH FENCE NOT GENERALLY RESTRICTED OR PROHIBITED. This subchapter does not restrict or prohibit the use

of a high fence on acreage not covered by a white-tailed deer management plan. (Parks & Wild. Code, Sec. 43.606 (part).)

Source Law

> Sec. 43.606. . . . This subchapter does not restrict or prohibit the use of high fences on acreage not covered by a management plan.

Revised Law

Sec. 5159.0310. CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) violates this subchapter or a department regulation adopted under this subchapter;

(2) violates a permit condition imposed under Section 5159.0303; or

(3) kills or allows to be killed a deer temporarily detained under Section 5159.0306(b)(1).

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor, except that an offense under Subsection (a)(3) is a Class A Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 43.607.)

Source Law

> Sec. 43.607. PENALTY. (a) A person commits an offense if the person:
>
> (1) violates a provision of this subchapter or a regulation of the department adopted under this subchapter;
>
> (2) violates a condition of permit imposed under Section 43.603(a);
>
> (3) fails to maintain records required by Section 43.605; or
>
> (4) kills or allows to be killed a deer temporarily detained under Section 43.602(a)(1).
>
> (b) An offense under Subsections (a)(1)-(3) is a Class C Parks and Wildlife Code misdemeanor.
>
> (c) An offense under Subsection (a)(4) is a Class A Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 43.607(a)(3), Parks and Wildlife Code, provides that a person commits an offense if the person fails to maintain records required by Section 43.605 of that code, revised as Section 5159.0307. The revised law omits that provision as redundant because the failure to maintain records as required by a

provision of the subchapter is necessarily included in a violation described by Section 43.607(a)(1), Parks and Wildlife Code, revised as Subsection (a)(1) of this section.

SUBCHAPTER D. MULE DEER MANAGEMENT PERMIT

Revised Law

Sec. 5159.0401. APPLICABILITY OF OTHER LAW. Except as expressly provided by this subchapter and the terms of a mule deer management permit and mule deer management plan, the general laws and regulations of this state applicable to mule deer apply to deer on the acreage covered by the permit. (Parks & Wild. Code, Sec. 43.626 (part).)

Source Law

> Sec. 43.626. APPLICATION OF GENERAL LAWS. Except as expressly provided by this subchapter and the terms of the permit and management plan, the general laws and regulations of this state applicable to mule deer apply to deer on the acreage covered by the permit. . . .

Revisor's Note

Section 43.626, Parks and Wildlife Code, refers to "the permit and management plan." For clarity, throughout this subchapter, the revised law substitutes "mule deer management permit" for "permit" or "deer management permit" and substitutes "mule deer management plan" for "management plan" or "deer management plan" because it is clear from the context of Subchapter R-1, Chapter 43, Parks and Wildlife Code, revised as this subchapter, that the type of deer managed under the referenced permit and plan are mule deer.

Revised Law

Sec. 5159.0402. MULE DEER MANAGEMENT PERMIT. (a) The department may issue a permit for the management of the wild mule deer population.

(b) The deer managed under a mule deer management permit

remain the property of the people of this state, and the permit holder is considered to be managing the population on behalf of this state.

(c) If the commission establishes a special season with a special bag limit for mule deer management permit holders, a mule deer management permit holder may receive compensation for granting a person permission to kill a wild deer during that special season on the acreage covered by the permit. (Parks & Wild. Code, Sec. 43.621.)

Source Law

> Sec. 43.621. PERMIT FOR DEER MANAGEMENT. (a) The department may issue a permit for the management of the wild mule deer population.
>
> (b) The deer managed under the permit remain the property of the people of the state, and the holder of the permit is considered to be managing the population on behalf of the state.
>
> (c) If a special season with a special bag limit is established by the commission for holders of a deer management permit, the holder of the permit may receive compensation for granting a person permission to kill a wild deer during that special season on the acreage covered by the permit.

Revised Law

Sec. 5159.0403. PERMIT CONDITIONS. A mule deer management permit is subject to conditions established by the commission, including conditions governing:

(1) the number of deer that may be killed on the acreage by a single person;

(2) the number and type of deer that may be killed or taken under the permit;

(3) the number and type of deer that may be temporarily detained in an enclosure; and

(4) the length of time that deer may be temporarily detained in an enclosure. (Parks & Wild. Code, Sec. 43.623(a).)

Source Law

> Sec. 43.623. CONDITIONS; DURATION; FEE. (a) A permit issued under this subchapter is subject to conditions established by the commission, including conditions governing:
>
> (1) the number of deer that may be killed on the property by a single person;
>
> (2) the number and type of deer that may be

killed or taken under the permit;

(3) the number and type of deer that may be temporarily detained in an enclosure; and

(4) the length of time that deer may be temporarily detained in an enclosure.

Revisor's Note

Section 43.623(a)(1), Parks and Wildlife Code, refers to the "property" covered by the permit. The revised law substitutes "acreage" for "property" for the reasons stated in the revisor's note to Section 5159.0303.

Revised Law

Sec. 5159.0404. PERMIT TERM. A mule deer management permit is valid for a period prescribed by the department of not less than one year. (Parks & Wild. Code, Sec. 43.623(b).)

Source Law

(b) The permit is valid for a period prescribed by the department of not less than one year.

Revised Law

Sec. 5159.0405. PERMIT FEE. The department shall set a fee for the issuance or renewal of a mule deer management permit in an amount not to exceed $1,000. (Parks & Wild. Code, Sec. 43.623(c).)

Source Law

(c) The department shall set a fee for the issuance or renewal of a permit in an amount not to exceed $1,000.

Revised Law

Sec. 5159.0406. MULE DEER MANAGEMENT PLAN. (a) A mule deer management permit holder annually must submit a mule deer management plan for the department's approval or disapproval.

(b) The mule deer management plan must provide for specific management practices to be applied to the deer population on the acreage covered by the mule deer management permit, which may include:

(1) detaining, for a period of not more than 16 months, wild mule deer in an enclosure on the acreage for the purpose of propagation with other wild deer or breeder deer, and releasing those deer on the acreage; or

(2) killing wild deer:

(A) in open seasons established by the commission in a number set in the plan; or

(B) during a special season with a special bag limit established by the commission for the permit.

(c) To be approved by the department, the mule deer management plan must be consistent with the commission's regulatory responsibilities under Chapter 5101.

(d) The mule deer management plan may not authorize the killing of wild deer within an enclosure designed for temporary detention of wild deer under Subsection (b)(1). (Parks & Wild. Code, Sec. 43.622.)

Source Law

> Sec. 43.622. MANAGEMENT PLAN. (a) The holder of a deer management permit must annually submit a deer management plan for approval or disapproval of the department. The management plan must provide for specific management practices to be applied to the deer population on the acreage, which may include, in addition to other practices:
>
> (1) the detention, for a period not to exceed 16 months, within an enclosure on the acreage covered by the permit, of wild mule deer for the purpose of propagation with other wild deer or breeder deer, and the release of those deer on that acreage;
>
> (2) the killing of wild deer in open seasons established by the commission in a number set in the management plan; or
>
> (3) the killing of wild deer during a special season having a special bag limit established by the commission for this permit.
>
> (b) A management plan approved by the department must be consistent with the regulatory responsibilities of the commission under Chapter 61.
>
> (c) A management plan may not authorize the killing of wild deer within an enclosure designed for the temporary detention of wild deer under Subsection (a)(1).

Revised Law

Sec. 5159.0407. RECORDS. A mule deer management permit holder shall maintain, in a form prescribed by the department, an accurate record of:

(1) the number of mule deer taken during the general open seasons and during any special seasons;

(2) the number of mule deer temporarily detained and released during the permit term; and

(3) any other information the department requires that reasonably relates to the activities covered by the permit. (Parks & Wild. Code, Sec. 43.625.)

Source Law

Sec. 43.625. RECORDS. The holder of a permit issued under this subchapter shall maintain, in a form prescribed by the department, an accurate record showing:

(1) the number of mule deer taken during the general open seasons and during any special seasons;

(2) the number of mule deer temporarily detained and released during the permit period; and

(3) any other information required by the department that reasonably relates to the activities covered by the permit.

Revised Law

Sec. 5159.0408. INSPECTION BY DEPARTMENT EMPLOYEE. For the purpose of determining a mule deer management permit holder's compliance with the mule deer management plan approved under Section 5159.0406, an authorized department employee may inspect at any time without warrant:

(1) the records required by Section 5159.0407; and

(2) the acreage covered by the permit. (Parks & Wild. Code, Sec. 43.624.)

Source Law

Sec. 43.624. INSPECTION. An authorized employee of the department may inspect at any time without warrant the records required by Section 43.625 and the acreage for which the permit is issued for the purpose of determining the permit holder's compliance with the management plan.

Revisor's Note

Section 43.624, Parks and Wildlife Code, refers to "the management plan." It is clear from the context that the referenced management plan is the deer management plan approved under Section 43.622, Parks and Wildlife Code, revised as Section 5159.0406, and the revised law adds a reference to that section for the convenience of the reader.

Revised Law

Sec. 5159.0409. HIGH FENCE NOT RESTRICTED OR PROHIBITED.

This subchapter does not restrict or prohibit the use of a high fence. (Parks & Wild. Code, Sec. 43.626 (part).)

Source Law

Sec. 43.626. . . . This subchapter does not restrict or prohibit the use of high fences.

Revised Law

Sec. 5159.0410. CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) violates this subchapter or a rule adopted under this subchapter;

(2) violates a permit condition imposed under Section 5159.0403; or

(3) kills or allows to be killed a deer temporarily detained under Section 5159.0406(b)(1).

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor, except that an offense under Subsection (a)(3) is a Class A Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 43.627.)

Source Law

Sec. 43.627. PENALTY. (a) A person commits an offense if the person:

(1) violates this subchapter or a rule adopted under this subchapter;

(2) violates a condition of permit imposed under Section 43.623(a);

(3) fails to maintain records required by Section 43.625; or

(4) kills or allows to be killed a deer temporarily detained under Section 43.622(a)(1).

(b) An offense under Subsections (a)(1)-(3) is a Class C Parks and Wildlife Code misdemeanor.

(c) An offense under Subsection (a)(4) is a Class A Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 43.627(a)(3), Parks and Wildlife Code, provides that a person commits an offense if the person fails to maintain records required by Section 43.625 of that code, revised as Section 5159.0407. The revised law omits that provision as redundant because the failure to maintain records as required by a provision of the subchapter is necessarily included in

a violation described by Section 43.627(a)(1), Parks and Wildlife Code, revised as Subsection (a)(1) of this section.

SUBCHAPTER E. REFUSAL TO ISSUE OR RENEW CERTAIN PERMITS RELATING TO DEER CONTROL, BREEDING, OR MANAGEMENT

Revised Law

Sec. 5159.0501. DEFINITION. In this subchapter, "final conviction" means:

(1) a final judgment of guilt;

(2) the granting of deferred adjudication community supervision or pretrial diversion; or

(3) the entering of a plea of guilty or nolo contendere. (Parks & Wild. Code, Sec. 12.602(2).)

Source Law

Sec. 12.602. DEFINITIONS. In this subchapter:

(2) "Final conviction" means a final judgment of guilt, the granting of deferred adjudication or pretrial diversion, or the entering of a plea of guilty or nolo contendere.

Revisor's Note

(1) Section 12.602(1), Parks and Wildlife Code, defines the term "applicant." The revised law omits the definition as unnecessary. Section 311.011(a), Government Code (Code Construction Act), provides that words and phrases shall be read in context and construed according to the rules of grammar and common usage. The definition is consistent with the meaning of that term in common usage and does not establish a technical or particular meaning of the term. The omitted law reads:

(1) "Applicant" means a person who has applied for a new or renewal permit.

(2) Section 12.602(2), Parks and Wildlife Code, refers to the granting of "deferred adjudication." The revised law substitutes "deferred adjudication community supervision" for "deferred adjudication"

because, in this context, the terms are synonymous and "deferred adjudication community supervision" is the term used in Subchapter C, Chapter 42A, Code of Criminal Procedure.

Revised Law

Sec. 5159.0502. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to:

(1) a trap, transport, and transplant permit under Section 5159.0101 or 5159.0102;

(2) a trap, transport, and process permit under Section 5159.0103;

(3) a deer breeder's permit under Subchapter B;

(4) a white-tailed deer management permit under Subchapter C; and

(5) a mule deer management permit under Subchapter D. (Parks & Wild. Code, Sec. 12.601.)

Source Law

Sec. 12.601. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to the following permits:
(1) a trap, transport, and transplant permit under Section 43.061 or 43.0611;
(2) a trap, transport, and process permit under Section 43.0612;
(3) a deer breeder's permit under Subchapter L, Chapter 43;
(4) a white-tailed deer management permit under Subchapter R, Chapter 43; and
(5) a mule deer management permit under Subchapter R-1, Chapter 43.

Revised Law

Sec. 5159.0503. GENERAL CIRCUMSTANCES FOR REFUSAL TO ISSUE OR RENEW PERMIT. The department may refuse to issue or renew a permit to which this subchapter applies if the applicant fails to submit in a timely manner:

(1) a completed application on a form the department prescribes;

(2) all application materials required by the department;

(3) the required permit fee;

(4) accurate reports as applicable; and

(5) any additional information the department determines is necessary to process the application. (Parks & Wild. Code, Sec. 12.603.)

Source Law

Sec. 12.603. GENERAL CIRCUMSTANCES FOR REFUSAL TO ISSUE OR RENEW PERMIT. The department may refuse to issue or renew a permit if the applicant fails to submit in a timely manner the following:

(1) a completed application on a form supplied by the department and all application materials required by the department;

(2) the required permit fee;

(3) accurate reports as applicable; and

(4) any additional information that the department determines is necessary to process the application.

Revised Law

Sec. 5159.0504. CONSIDERATIONS FOR ISSUANCE OR RENEWAL OF PERMIT FOR APPLICANT WITH PRIOR PENALTIES OR CONVICTIONS. (a) This section applies only to a determination of whether to issue or renew a permit to which this subchapter applies for an applicant who has a final conviction or has been assessed an administrative penalty for a violation of:

(1) Subchapter A, B, C, D, or G;

(2) a provision of this code not described by Subdivision (1) that is punishable as a Class A or B Parks and Wildlife Code misdemeanor, a Parks and Wildlife Code state jail felony, or a Parks and Wildlife Code felony;

(3) Section 5201.0102; or

(4) the Lacey Act (16 U.S.C. Sections 3371-3378).

(b) In determining whether to issue or renew a permit for an applicant to whom this section applies, the department shall consider:

(1) the number of final convictions or administrative penalties;

(2) the seriousness of the conduct on which the final conviction or administrative penalty is based;

(3) the existence, number, and seriousness of offenses

or violations other than offenses or violations that resulted in a final conviction or administrative penalty described by Subsection (a);

(4) the length of time between the most recent final conviction or administrative penalty and the permit application;

(5) whether the final conviction, administrative penalty, or other offense or violation was the result of negligence or intentional conduct;

(6) whether the final conviction or administrative penalty resulted from conduct committed or omitted by the applicant, an agent of the applicant, or both;

(7) the accuracy of the permit history information provided by the applicant;

(8) for a renewal, whether the applicant agreed to any special provisions recommended by the department as conditions to the expiring permit; and

(9) other mitigating factors. (Parks & Wild. Code, Sec. 12.604.)

Source Law

Sec. 12.604. CONSIDERATIONS FOR ISSUANCE OR RENEWAL OF PERMIT; APPLICANT WITH PRIOR PENALTIES OR CONVICTIONS. (a) This section applies only to a determination of whether to issue a permit to or renew a permit for an applicant who has a final conviction or has been assessed an administrative penalty for a violation of:

(1) Subchapter C, E, L, R, or R-1, Chapter 43;

(2) a provision of this code not described by Subdivision (1) that is punishable as a Class A or B Parks and Wildlife Code misdemeanor, a Parks and Wildlife Code state jail felony, or a Parks and Wildlife Code felony;

(3) Section 63.002; or

(4) the Lacey Act (16 U.S.C. Sections 3371-3378).

(b) In determining whether to issue a permit to or renew a permit for an applicant who has a final conviction or has been assessed an administrative penalty, the department shall consider:

(1) the number of final convictions or administrative penalties;

(2) the seriousness of the conduct on which the final conviction or administrative penalty is based;

(3) the existence, number, and seriousness of offenses or violations other than offenses or violations that resulted in a final conviction or

administrative penalty described by Subsection (a);

(4) the length of time between the most recent final conviction or administrative penalty and the permit application;

(5) whether the final conviction, administrative penalty, or other offense or violation was the result of negligence or intentional conduct;

(6) whether the final conviction or administrative penalty resulted from conduct committed or omitted by the applicant, an agent of the applicant, or both;

(7) the accuracy of the permit history information provided by the applicant;

(8) for a renewal, whether the applicant agreed to any special provisions recommended by the department as conditions to the expiring permit; and

(9) other mitigating factors.

Revised Law

Sec. 5159.0505. STATEMENT REGARDING REFUSAL TO ISSUE OR RENEW PERMIT. Not later than the 10th day after the date the department makes a decision to refuse to issue or renew a permit to which this subchapter applies, the department shall provide to the applicant a written statement of the reasons for the decision. (Parks & Wild. Code, Sec. 12.605(a).)

Source Law

Sec. 12.605. PROCEDURE FOR REFUSAL TO ISSUE OR RENEW PERMIT. (a) Not later than the 10th day after the date a decision to refuse to issue or renew a permit has been made, the department shall provide to the applicant a written statement of the reasons for the decision.

Revisor's Note

Section 12.605(a), Parks and Wildlife Code, refers to a decision that "has been made" to refuse to issue or renew a permit. Section 12.603, Parks and Wildlife Code, authorizes the Parks and Wildlife Department to refuse to issue or renew the referenced permit, and the revised law is drafted accordingly.

Revised Law

Sec. 5159.0506. REVIEW OF REFUSAL TO ISSUE OR RENEW PERMIT. (a) The commission by rule shall adopt procedures consistent with this subchapter for the department's review of a refusal to issue or renew a permit to which this subchapter applies.

(b) In conducting a review of a department decision to refuse to issue or renew a permit to which this subchapter applies,

the department shall consider:

(1) any applicable factors listed in Section 5159.0504;

(2) the applicant's efforts toward rehabilitation;

(3) whether there is a substantial likelihood that the applicant would repeat the conduct on which the refusal is based;

(4) whether the conduct on which the refusal is based involved a threat to public safety; and

(5) other mitigating factors. (Parks & Wild. Code, Secs. 12.605(b), 12.606.)

Source Law

[Sec. 12.605]

(b) The commission by rule shall adopt procedures consistent with this subchapter for the department's review of a refusal to issue or renew a permit.

Sec. 12.606. REVIEW OF REFUSAL TO ISSUE OR RENEW PERMIT. In conducting a review of a decision by the department to refuse to issue or renew a permit, the department shall consider:

(1) any applicable factors listed under Section 12.604;

(2) the applicant's efforts toward rehabilitation;

(3) whether there is a substantial likelihood that the applicant would repeat the conduct on which the refusal is based;

(4) whether the conduct on which the refusal is based involved a threat to public safety; and

(5) other mitigating factors.

Revised Law

Sec. 5159.0507. APPEAL OF DEPARTMENT DECISION REFUSING TO ISSUE OR RENEW PERMIT. (a) Venue to appeal a department decision refusing to issue or renew a permit to which this subchapter applies is in a district court in Travis County.

(b) The appeal shall be by trial de novo. (Parks & Wild. Code, Sec. 12.607.)

Source Law

Sec. 12.607. APPEAL OF DEPARTMENT DECISION REFUSING TO ISSUE OR RENEW PERMIT. (a) Venue to appeal a decision of the department refusing to issue or renew a permit is a district court in Travis County.

(b) The appeal shall be by trial de novo.

SUBCHAPTER F. MANAGED LANDS DEER PROGRAM

Revised Law

Sec. 5159.0601. DEFINITION. In this subchapter, "program" means the managed lands deer program described by 31 T.A.C. Section 65.29, or a successor to that program. (Parks & Wild. Code, Sec. 43.975.)

Source Law

> Sec. 43.975. DEFINITION. In this subchapter, "program" means the Managed Lands Deer Program described by 31 T.A.C. Section 65.29, or a successor to that program.

Revised Law

Sec. 5159.0602. PROGRAM PARTICIPATION FEE. (a) The commission by rule may impose a fee for participation in the program.

(b) The commission shall remit a fee collected under Subsection (a) to the comptroller for deposit to the credit of the game, fish, and water safety account.

(c) Section 2001.0045, Government Code, does not apply to a rule adopted under this section. (Parks & Wild. Code, Sec. 43.976.)

Source Law

> Sec. 43.976. PROGRAM PARTICIPATION FEE. (a) The commission by rule may impose a fee for participation in the program. Section 2001.0045, Government Code, does not apply to a rule adopted under this section.
>
> (b) The commission shall remit a fee collected under Subsection (a) to the comptroller for deposit to the credit of the game, fish, and water safety account.

Revised Law

Sec. 5159.0603. COMMISSION RULES. The commission shall adopt rules required to implement the program. (Parks & Wild. Code, Sec. 43.977.)

Source Law

> Sec. 43.977. RULES. The commission shall adopt rules required to implement the program.

SUBCHAPTER G. PERMIT FOR SCIENTIFIC RESEARCH, EDUCATIONAL DISPLAY, ZOOLOGICAL COLLECTION, OR REHABILITATION OF PROTECTED WILDLIFE

Revised Law

Sec. 5159.0701. DEFINITION. In this subchapter, "protected wildlife" means a mammal, bird, reptile, amphibian, or fish or other aquatic life that is indigenous and the taking, collecting, holding, possession, propagation, display, transport, or release of which is governed by this code outside of this subchapter or a commission rule adopted under this code outside of this subchapter. The term includes endangered species. (Parks & Wild. Code, Sec. 43.021.)

Source Law

> Sec. 43.021. PROTECTED WILDLIFE. In this subchapter, "protected wildlife" means all indigenous mammals, indigenous birds, indigenous reptiles, indigenous amphibians, indigenous fish, and other indigenous aquatic life the taking, collecting, holding, possession, propagation, release, display, or transport of which is governed by a provision of this code other than this subchapter or by a commission rule adopted under any provision of this code other than this subchapter and includes endangered species.

Revised Law

Sec. 5159.0702. PERMIT REQUIRED. Except as provided by Section 5159.0706, a person may not collect, hold, possess, propagate, display, transport, or release protected wildlife for scientific research, educational display, zoological collection, or rehabilitation unless the person holds a permit issued under this subchapter. (Parks & Wild. Code, Sec. 43.022(a).)

Source Law

> Sec. 43.022. PERMIT REQUIREMENT. (a) No person may collect, hold, possess, display, transport, release, or propagate protected wildlife for the purposes of this subchapter without a permit issued under this subchapter.

Revisor's Note

Section 43.022(a), Parks and Wildlife Code, provides that a person may not conduct certain activities for "the purposes of this subchapter," meaning Subchapter C, Chapter 43, of that code, unless the person holds a permit issued under that subchapter. For the convenience of the reader, the

revised law adds "[e]xcept as provided by Section 5159.0706" to indicate to the reader that exceptions to the permit requirement are included in that section. Additionally, for clarity and the convenience of the reader, the revised law substitutes "scientific research, educational display, zoological collection, or rehabilitation" for "the purposes of this subchapter" because Section 43.022(e), Parks and Wildlife Code, revised as Section 5159.0703, lists the purposes for the issuance of a permit and the subchapter's purposes referenced in Section 43.022(a) are the same purposes.

Revised Law

Sec. 5159.0703. PERMIT ISSUANCE. (a) Except as provided by Subsection (b), the department may issue to a qualified person a permit to collect, hold, possess, propagate, display, transport, or release protected wildlife for scientific research, educational display, zoological collection, or rehabilitation.

(b) A permit may not be issued to:

(1) propagate protected wildlife for educational display or rehabilitation; or

(2) take or transport endangered fish or wildlife the taking, possession, or transportation of which is prohibited by federal law.

(c) The executive director or the executive director's designee may issue a permit authorized by this subchapter. (Parks & Wild. Code, Secs. 43.022(e), (i), 43.024(b).)

Source Law

(e) The department may issue a permit to a qualified person to collect, hold, possess, display, transport, release, or propagate protected wildlife for scientific research, educational display, zoological collection, or rehabilitation. A permit may not be issued to propagate protected wildlife for rehabilitation or educational display.

(i) A permit authorized by this subchapter may be issued by the director or the director's designee.

[Sec. 43.024]

(b) No permit may be issued for the taking or transportation of any endangered fish or wildlife the possession, taking, or transportation of which is prohibited by federal law.

Revised Law

Sec. 5159.0704. FEDERAL PERMIT REQUIRED TO TAKE MIGRATORY BIRDS. A permit issued under this subchapter for the taking of migratory birds is not valid unless the permit holder holds a federal permit for the taking of migratory birds. (Parks & Wild. Code, Sec. 43.024(c).)

Source Law

(c) A permit issued for the taking of migratory birds is not valid unless the applicant has obtained a federal permit for the taking of migratory birds.

Revisor's Note

Section 43.024(c), Parks and Wildlife Code, provides that a "permit" issued for the taking of migratory birds is not valid unless the "applicant" holds a federal permit for the taking of migratory birds. The revised law substitutes "permit issued under this subchapter" for "permit" because the referenced permit is a permit issued under Subchapter C, Chapter 43, of that code, revised as this subchapter. Additionally, the revised law substitutes "permit holder" for "applicant" for clarity and consistency in terminology used in this subtitle because once the permit is issued to a person, the person is a permit holder rather than an applicant for the permit.

Revised Law

Sec. 5159.0705. ANOTHER LICENSE GENERALLY NOT REQUIRED. Except as provided by Section 5159.0704, a person who holds a permit issued under this subchapter is not required to hold another license to engage in an activity conducted under the authority of the permit. (Parks & Wild. Code, Sec. 43.022(c).)

Source Law

(c) No other license is required for an activity conducted under the authority of a permit issued under this subchapter.

Revisor's Note

Section 43.022(c), Parks and Wildlife Code, provides that a person who holds a permit issued under Subchapter C, Chapter 43, of that code is not required to hold any other license to engage in an activity conducted under the authority of the permit. For clarity and the convenience of the reader, the revised law adds "[e]xcept as provided by Section 5159.0704" to indicate to the reader that an exception to the general rule is included in that section.

Revised Law

Sec. 5159.0706. EXCEPTIONS. (a) A person is not required to hold a permit issued under this subchapter to:

(1) engage in an activity that may be lawfully conducted:

(A) under the authority of another license or permit issued under this code; or

(B) in accordance with another provision of this code; or

(2) hold, propagate, display, or transport a marine mammal held under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. Section 1361 et seq.) unless:

(A) the department has been delegated management authority for the marine mammal under 16 U.S.C. Section 1379; or

(B) the marine mammal is listed under the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.).

(b) The commission by rule may exempt from the permitting and fee requirements of this subchapter certain categories of activities that:

(1) are determined to provide a public benefit; and

(2) do not adversely affect a protected wildlife

resource. (Parks & Wild. Code, Secs. 43.022(b), (d), (h).)

Source Law

(b) A permit under this subchapter is not required for an activity that may be lawfully conducted under the authority of another license or permit issued under this code or in accordance with another provision of this code.

(d) A permit under this subchapter is not required to hold, transport, propagate, or display a marine mammal held under the authority of the federal Marine Mammal Protection Act (16 U.S.C. Section 1361 et seq.) unless the marine mammal is:

(1) a marine mammal for which the department has been delegated management authority under Section 1379 of the Marine Mammal Protection Act (16 U.S.C. Section 1379); or

(2) a marine mammal listed under the federal Endangered Species Act (16 U.S.C. Section 1531 et seq.).

(h) The commission by rule may exempt certain categories of activities from the permitting and fee requirements of or established under this subchapter if those activities are determined to provide a public benefit and do not adversely affect a protected wildlife resource.

Revisor's Note

(1) Section 43.022(d), Parks and Wildlife Code, refers to the Marine Mammal Protection Act (16 U.S.C. Section 1361 et seq.) and the Endangered Species Act (16 U.S.C. Section 1531 et seq.). To accurately reflect the name of each federal statute, the revised law adds the year of enactment and refers to the statutes respectively as the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973.

(2) Section 43.022(h), Parks and Wildlife Code, authorizes the Parks and Wildlife Commission to exempt certain categories of activities from the permitting and fee requirements of "or established under" Subchapter C, Chapter 43, of that code. The revised law omits the quoted language as unnecessary because a requirement established under that subchapter is necessarily a requirement of that subchapter.

Revised Law

Sec. 5159.0707. DISPOSITION OF PROTECTED WILDLIFE.

Protected wildlife collected and held under this subchapter or a rule adopted under this subchapter remains the property of this state and shall be:

(1) relinquished on demand to the department or a department agent; or

(2) disposed of in a manner the department prescribes. (Parks & Wild. Code, Sec. 43.024(a).)

Source Law

Sec. 43.024. DISPOSITION OF PROTECTED WILDLIFE. (a) All protected wildlife collected and subsequently held under this subchapter or rules adopted under this subchapter remain the property of the state and shall be relinquished to the department or an agent of the department on demand or otherwise disposed of in a manner prescribed by the department.

Revised Law

Sec. 5159.0708. FEES. The commission by rule may set fees for:

(1) the review of a permit application;

(2) an inspection;

(3) the transportation and boarding of a seized animal;

(4) laboratory analysis; or

(5) another department action necessary to implement this subchapter. (Parks & Wild. Code, Sec. 43.022(g).)

Source Law

(g) The commission by rule may set fees for review of permit applications, inspections, transportation and boarding of seized animals, laboratory analysis, or other department actions necessary for implementation of this subchapter.

Revised Law

Sec. 5159.0709. COMMISSION RULES. The commission shall adopt rules governing the collecting, holding, possession, propagation, display, transport, or release of protected wildlife for scientific research, educational display, zoological collection, or rehabilitation. (Parks & Wild. Code, Sec. 43.022(f).)

Source Law

(f) The commission shall adopt rules to govern the collecting, holding, possession, propagation, release, display, or transport of protected wildlife for scientific research, educational display, zoological collection, or rehabilitation.

Revised Law

Sec. 5159.0710. INJUNCTION; CIVIL PENALTY. (a) With the executive director's or commission's approval, the department may authorize a civil suit to enforce this subchapter or a rule adopted under this subchapter.

(b) On finding that a violation of this subchapter or a rule adopted under this subchapter occurred, a court may assess a civil penalty in addition to providing injunctive relief. The penalty amount may not exceed $1,000 for each violation. Each day a violation continues is a separate violation.

(c) On entry of a judgment in favor of the department, a court may award attorney's fees and court costs to this state.

(d) A civil suit filed under this subchapter does not bar a criminal or administrative action. (Parks & Wild. Code, Sec. 43.028.)

Source Law

Sec. 43.028. CIVIL SUIT; INJUNCTIVE RELIEF; COSTS. (a) The department, on the approval of the director or commission, may authorize the filing and prosecution of a civil suit to enforce this subchapter or a rule adopted under this subchapter.

(b) On finding of a violation of this subchapter or a rule adopted under this subchapter, a court may assess a civil penalty in addition to providing injunctive relief. The penalty may not exceed $1,000 for each violation. Each day of violation is a separate offense. A civil suit filed under this subchapter is not a bar to any criminal or administrative action.

(c) On entry of a judgment in favor of the department, the court may award attorney's fees and court costs to the state.

Revised Law

Sec. 5159.0711. CRIMINAL PENALTY. (a) A person commits an offense if the person violates:

(1) Section 5159.0702;

(2) a commission rule; or

(3) the conditions of a permit issued under this subchapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 43.030.)

Source Law

Sec. 43.030. PENALTY. A person who violates Section 43.022, a commission rule, or the conditions of a permit issued under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 43.030, Parks and Wildlife Code, refers to a violation of Section 43.022 of that code. Section 43.022 is revised in pertinent part as Section 5159.0702, and the revised law is drafted accordingly.

SUBCHAPTER H. PERMIT FOR WILDLIFE AND EXOTIC ANIMAL MANAGEMENT BY USE OF AIRCRAFT

Revised Law

Sec. 5159.0801. DEFINITIONS. In this subchapter:

(1) "Aircraft" means a mechanical or other device used for flight in the air.

(2) "Depredating animal" means a bobcat, feral hog, red fox, or coyote or a crossbreed between a coyote and a dog. The term does not include a bird or fowl.

(3) "Exotic animal" includes:

(A) exotic livestock and exotic fowl as defined by Section 161.001(a), Agriculture Code;

(B) a wild animal nonindigenous to this state;

(C) an aoudad sheep; and

(D) an elk.

(4) "Harass" means to disturb, worry, molest, harry, torment, rally, concentrate, drive, or herd.

(5) "Management" means counting, photographing, hunting, capturing, or relocating.

(6) "Wildlife" means a vertebrate species or hybrid of vertebrate species that normally lives in a state of nature and is

not ordinarily domesticated. The term includes depredating animals. (Parks & Wild. Code, Sec. 43.103.)

Source Law

Sec. 43.103. DEFINITIONS. In this subchapter:

(1) "Aircraft" means a mechanical or other device used for flight in the air.

(2) "Depredating animals" means bobcats, feral hogs, red foxes, coyotes, and crossbreeds between coyotes and dogs but does not include birds or fowl.

(3) "Exotic animals" includes exotic livestock and exotic fowl as defined by Section 161.001(a), Agriculture Code, wild animals that are nonindigenous to Texas, aoudad sheep, and elk.

(4) "Harass" means to disturb, worry, molest, harry, torment, rally, concentrate, drive, or herd.

(5) "Management by the use of aircraft" means counting, photographing, relocating, capturing, or hunting by the use of aircraft.

(6) "Wildlife" means any vertebrate species or their hybrids that normally live in a state of nature and are not ordinarily domesticated. This definition includes depredating animals.

Revisor's Note

Section 43.103(5), Parks and Wildlife Code, defines "management by the use of aircraft" for purposes of Subchapter G, Chapter 43, of that code to mean counting, photographing, relocating, capturing, or hunting "by the use of aircraft." For clarity, the revised law substitutes "management" for "management by the use of aircraft" as the defined term because the latter phrase does not appear in that subchapter. Additionally, the revised law omits "by the use of aircraft" from the substance of the definition because the revised definition relates only to the meaning of the term "management."

Revised Law

Sec. 5159.0802. PERMIT FOR WILDLIFE AND EXOTIC ANIMAL MANAGEMENT BY USE OF AIRCRAFT. The department may issue permits for the management of wildlife and exotic animals by use of aircraft in this state under 16 U.S.C. Section 742j-1(b)(1) to any person if the department finds that management of wildlife or exotic animals by use of aircraft:

(1) is necessary to protect or to aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops; and

(2) will not have a harmful effect on indigenous species. (Parks & Wild. Code, Secs. 43.102, 43.104.)

Source Law

Sec. 43.102. PERMIT AUTHORIZED. Under Public Law 92-159, Section (b)(1) (85 Stat. 480, 16 U.S.C. 742j-1), the department may issue permits for the management of wildlife and exotic animals by the use of aircraft in this state.

Sec. 43.104. GROUNDS TO ISSUE PERMIT. The department may issue a permit to any person if the department finds that management of wildlife or exotic animals by the use of aircraft is necessary to protect or to aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops and will not have a deleterious effect on indigenous species.

Revisor's Note

(1) Section 43.102, Parks and Wildlife Code, refers to "Public Law 92-159, Section (b)(1) (85 Stat. 480, 16 U.S.C. 742j-1)." The revised law substitutes for the quoted language "16 U.S.C. Section 742j-1(b)(1)" as the more commonly used citation form.

(2) Section 43.104, Parks and Wildlife Code, refers to a finding by the Parks and Wildlife Department that management of wildlife and exotic animals by use of aircraft will not have a "deleterious" effect on indigenous species. The revised law substitutes "harmful" for "deleterious" for the reasons stated in the revisor's note to Section 5104.0205.

Revised Law

Sec. 5159.0803. PERMIT APPLICATION. An applicant for a permit under this subchapter shall file with the permit application one or more affidavits containing both fact and opinion regarding the reason the permit should be issued. (Parks & Wild. Code, Sec. 43.105(a).)

Source Law

Sec. 43.105. APPLICATION FOR PERMIT. (a) An applicant for a permit under this subchapter shall file with the application one or more affidavits, containing facts as well as opinion, as to why the permit should be issued for the management of wildlife or exotic animals by the use of aircraft.

Revised Law

Sec. 5159.0804. LANDOWNER'S AUTHORIZATION REQUIRED. (a) A person who holds a permit issued under this subchapter shall submit to the department a landowner's authorization to manage wildlife or exotic animals. The authorization must:

(1) identify the land to be managed; and

(2) state the kind and number of wildlife or exotic animals to be managed.

(b) A group of landowners or an association representing landowners may submit a landowner's authorization. (Parks & Wild. Code, Sec. 43.105(b).)

Source Law

(b) A permit holder under this subchapter must submit a landowner's authorization to manage wildlife or exotic animals to the department identifying the land to be managed and stating the kind and number of wildlife or exotic animals to be managed. The landowner's authorization may be submitted by a group of landowners or by an association on behalf of such landowners.

Revised Law

Sec. 5159.0805. ISSUANCE, TERM, AND RENEWAL OF PERMIT AND LANDOWNER'S AUTHORIZATION. (a) The department shall prescribe the form and manner of issuance of, and periods of validity and renewal dates for, permits and landowner's authorizations authorized by this subchapter.

(b) The department may approve a landowner agreement application to manage wildlife or exotic animals for the greater of one year or the period required to complete the management activity. (Parks & Wild. Code, Sec. 43.106.)

Source Law

Sec. 43.106. FORM AND PERIOD OF VALIDITY OF PERMIT; RENEWAL. (a) The department shall prescribe the form and manner of issuance of, and periods of

validity and renewal dates for, permits and landowner's authorizations authorized by this subchapter.

(b) A landowner agreement application to manage wildlife or exotic animals may be approved by the department for the time period required to complete the management activity but not for less than one year.

Revised Law

Sec. 5159.0806. PERMIT FEE. The commission shall set the fee amount for a permit issued under this subchapter. (Parks & Wild. Code, Sec. 43.110.)

Source Law

Sec. 43.110. PERMIT FEE. The commission shall set a fee for a permit that authorizes the management of wildlife or exotic animals by the use of aircraft.

Revisor's Note

Section 43.110, Parks and Wildlife Code, requires the Parks and Wildlife Commission to set a fee for a "permit that authorizes the management of wildlife or exotic animals by the use of aircraft." For clarity and consistency in terminology used in this subchapter, the revised law substitutes "permit issued under this subchapter" for the quoted language because Subchapter G, Chapter 43, Parks and Wildlife Code, revised as this subchapter, authorizes the issuance of a permit to manage wildlife and exotic animals by aircraft and no other permit is issued under that subchapter.

Revised Law

Sec. 5159.0807. USE OF HELICOPTER TO TAKE CERTAIN ANIMALS. Under the authority of a permit issued under this subchapter, a qualified landowner or landowner's agent, as determined by commission rule, may contract to participate as a hunter or observer in using a helicopter to take depredating:

(1) feral hogs;

(2) coyotes; or

(3) aoudad sheep. (Parks & Wild. Code, Sec. 43.1075.)

Source Law

Sec. 43.1075. USING HELICOPTERS TO TAKE CERTAIN ANIMALS. Under the authority of a permit issued under this subchapter, a qualified landowner or landowner's agent, as determined by commission rule, may contract to participate as a hunter or observer in using a helicopter to take depredating:

(1) feral hogs;

(2) coyotes; or

(3) aoudad sheep.

Revised Law

Sec. 5159.0808. USE OF HOT AIR BALLOON TO TAKE CERTAIN ANIMALS. A qualified landowner or landowner's agent, as determined by commission rule, may contract to participate as a hunter or observer in using a hot air balloon to take depredating feral hogs or coyotes under the authority of a permit issued under this subchapter. (Parks & Wild. Code, Sec. 43.1076.)

Source Law

Sec. 43.1076. USING HOT AIR BALLOONS TO TAKE CERTAIN ANIMALS. A qualified landowner or landowner's agent, as determined by commission rule, may contract to participate as a hunter or observer in using a hot air balloon to take depredating feral hogs or coyotes under the authority of a permit issued under this subchapter.

Revised Law

Sec. 5159.0809. SPORT HUNTING FROM AIRCRAFT NOT AUTHORIZED. This subchapter does not authorize a person to hunt for sport an animal or bird from an aircraft. (Parks & Wild. Code, Sec. 43.1095(c).)

Source Law

(c) Nothing in this chapter authorizes a person to hunt any animal or bird from an aircraft for sport.

Revisor's Note

Section 43.1095(c), Parks and Wildlife Code, provides that "this chapter" does not authorize a person to hunt an animal or bird from an aircraft for sport. The revised law substitutes "[t]his subchapter" for "this chapter" because Subchapter G, Chapter 43, Parks and Wildlife Code, revised as this subchapter, contains the only provisions of Chapter 43

that relate to hunting from an aircraft.

Revised Law

Sec. 5159.0810. REPORT BY PERMIT HOLDER. A person who holds a permit issued under this subchapter shall report to the department in the time and manner required by commission proclamation. (Parks & Wild. Code, Sec. 43.107(a).)

Source Law

> Sec. 43.107. REPORTS REQUIRED. (a) The holder of a permit under this subchapter shall report to the department in the time and manner required by commission proclamation.

Revised Law

Sec. 5159.0811. ANNUAL REPORT BY DEPARTMENT. The department shall report annually to the secretary of the interior of the United States as required by federal law. (Parks & Wild. Code, Sec. 43.108.)

Source Law

> Sec. 43.108. REPORTS BY DEPARTMENT. The department shall report annually to the Secretary of the Interior of the United States as required by federal law.

Revised Law

Sec. 5159.0812. COMMISSION PROCLAMATIONS AND REGULATIONS. (a) The commission may adopt regulations governing wildlife or exotic animal management by use of aircraft under this subchapter.

(b) A commission proclamation or regulation adopted under this subchapter may:

(1) prescribe forms and procedures for permit applications;

(2) establish procedures for wildlife or exotic animal management by use of aircraft;

(3) limit the time and place for which a permit is valid;

(4) prohibit acts; and

(5) require or limit an activity as necessary to implement this subchapter. (Parks & Wild. Code, Sec. 43.109.)

Source Law

Sec. 43.109. REGULATIONS. (a) The commission may make regulations governing management of wildlife or exotic animals by the use of aircraft under this subchapter.

(b) A proclamation or regulation of the commission adopted under this subchapter may:

(1) prescribe forms and procedures for permit applications;

(2) establish procedures for the management of wildlife or exotic animals by the use of aircraft;

(3) limit the time and the place for which a permit is valid;

(4) prohibit acts; and

(5) require, limit, or prohibit any activity as necessary to implement this subchapter.

Revisor's Note

Sections 43.109(b)(4) and (5), Parks and Wildlife Code, provide that a proclamation or regulation adopted by the Parks and Wildlife Commission may "prohibit acts" and "require, limit, or prohibit any activity as necessary to implement" Subchapter G, Chapter 43, of that code. The revised law substitutes "require or limit" for "require, limit, or prohibit" because the power to prohibit an activity as necessary to implement that subchapter is included within the power to "prohibit acts."

Revised Law

Sec. 5159.0813. PROHIBITED ACTS. A person may not:

(1) hunt or kill, or attempt to hunt or kill, from an aircraft an animal or bird that is not specifically authorized to be hunted or killed from an aircraft by a permit issued under this subchapter;

(2) use an aircraft to manage wildlife or exotic animals unless the person holds and has in the person's immediate possession a permit and a landowner's authorization under this subchapter; or

(3) use an aircraft to harass wildlife, an exotic animal, or another animal or bird. (Parks & Wild. Code, Sec. 43.1095(a).)

Source Law

Sec. 43.1095. PROHIBITED ACTS. (a) For purposes of this subchapter, a person commits an offense if that person:

(1) hunts or kills, or attempts to hunt or kill, from an aircraft any animal or bird that is not specifically authorized by a permit issued under this subchapter;

(2) uses an aircraft to manage wildlife or exotic animals without first obtaining and having in the person's immediate possession a permit and a landowner's authorization for the management of wildlife or exotic animals by the use of aircraft; or

(3) uses an aircraft to harass wildlife, exotic animals, or any other animal or bird.

Revisor's Note

Section 43.1095(a), Parks and Wildlife Code, provides that a person commits an offense if the person takes certain actions. For clarity, the revised law restates the provision as a prohibition on taking those actions but omits the portion of the provision creating an offense because it duplicates in substance Section 43.111(a), Parks and Wildlife Code, revised in pertinent part as Section 5159.0814(a), which creates an offense for violating any provision of Subchapter G, Chapter 43, of that code.

Revised Law

Sec. 5159.0814. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter or a proclamation or regulation adopted under this subchapter.

(b) An offense under this section is:

(1) except as otherwise provided by this subsection, a Class A Parks and Wildlife Code misdemeanor;

(2) a Class C Parks and Wildlife Code misdemeanor if the offense is for a violation of Section 5159.0810; or

(3) a Parks and Wildlife Code felony if it is shown on the trial of the offense that, during the 10-year period preceding the trial date of the offense, the defendant has previously been convicted of an offense punishable under Subdivision (1).

(c) It is a defense to prosecution for an offense under this

section for a violation of Section 5159.0813(3) that the person was engaged in wildlife or exotic animal management under the authority of a permit issued under this subchapter. (Parks & Wild. Code, Secs. 43.1095(b), 43.111.)

Source Law

[Sec. 43.1095]

(b) It is a defense to prosecution for harassment of wildlife or exotic animals under this section if the person is engaged in the activity of counting, photographing, relocating, capturing, or hunting wildlife or exotic animals under the authority of a permit under this subchapter.

Sec. 43.111. PENALTY. (a) Except as otherwise provided by this section, a person who violates any provision of this subchapter or a proclamation or regulation adopted under this subchapter commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

(b) A person who violates Section 43.107 commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(c) If it is shown at the trial of the defendant for a violation of this subchapter or a proclamation or regulation adopted under this subchapter that the defendant has been convicted of a Class A Parks and Wildlife Code misdemeanor violation of this subchapter within 10 years preceding the trial date, on conviction the defendant shall be punished for a Parks and Wildlife Code felony. This subsection does not apply if the previous conviction was for a violation of Section 43.107.

Revisor's Note

(1) Section 43.111(b), Parks and Wildlife Code, refers to a violation of Section 43.107 of that code. Section 43.107 is revised in pertinent part as Section 5159.0810, and the revised law is drafted accordingly.

(2) Section 43.111(c), Parks and Wildlife Code, provides that an offense under that section is a Parks and Wildlife Code felony if the defendant has been previously convicted of a Class A Parks and Wildlife Code misdemeanor within 10 years preceding the trial date, and states that "[t]his subsection does not apply if the previous conviction was for a violation of Section 43.107" of that code. The revised law omits the quoted language as unnecessary because the enhancement under Section 43.111(c), by its own terms,

applies only if the previous conviction was for a Class A Parks and Wildlife Code misdemeanor, and under Section 43.111(b), Parks and Wildlife Code, a violation of Section 43.107 is a Class C Parks and Wildlife Code misdemeanor.

Revised Law

Sec. 5159.0815. VENUE FOR CERTAIN PROSECUTIONS. An offense under Section 5159.0814 for a violation of Section 5159.0810 may be prosecuted in the county in which:

(1) the defendant resides; or

(2) the offense took place. (Parks & Wild. Code, Sec. 43.107(b).)

Source Law

(b) An offense under this section may be prosecuted in the county in which the defendant resides or in the county where the offense took place.

Revisor's Note

Section 43.107(b), Parks and Wildlife Code, refers to an offense under "this section," meaning Section 43.107 of that code. The revised law substitutes "Section 5159.0814 for a violation of Section 5159.0810" for "this section" because Section 43.111(b), revised in Section 5159.0814, creates an offense for a violation of Section 43.107, Parks and Wildlife Code, and the applicable provision of Section 43.107, which imposes a reporting requirement, is revised as Section 5159.0810.

Revisor's Note
(End of Subchapter)

Section 43.101, Parks and Wildlife Code, provides that Subchapter G, Chapter 43, of that code and proclamations and regulations of the Parks and Wildlife Commission adopted under that subchapter apply to all counties of the state. The revised law omits that provision as unnecessary because no reading

of Subchapter G, Chapter 43, limits the subchapter's applicability to any specific county or counties. The omitted law reads:

> Sec. 43.101. APPLICABILITY OF SUBCHAPTER. This subchapter and a proclamation or regulation of the commission adopted under this subchapter apply to all counties of the state.

SUBCHAPTER I. PERMIT TO CONTROL WILDLIFE THREATENING PUBLIC SAFETY OR CAUSING DAMAGE

Revised Law

Sec. 5159.0901. REQUIRED NOTICE OF WILDLIFE THREATENING PUBLIC SAFETY OR CAUSING DAMAGE; NOTICE OF WHITE-TAILED DEER POPULATION CONTROL IN CERTAIN AREAS. (a) A person who has evidence clearly showing that wildlife protected under this code is a threat to public safety or is causing serious damage to commercial agricultural, horticultural, or aquacultural interests and who wishes to kill the protected wildlife shall submit to the department written notice of the facts.

(b) A political subdivision, a state agency, a federal agency, an institution of higher education, or a property owners' association as defined by Section 202.001, Property Code, that desires to control by lethal means a white-tailed deer population shall submit to the department written notice of evidence demonstrating:

(1) the use of lethal means is necessary to prevent the deer from damaging the habitat of one or more species listed by the United States Department of the Interior or an agency of this state as endangered or threatened; or

(2) the entity is experiencing an overpopulation of deer on property the entity owns or manages and recreational hunting is not feasible for controlling the deer population. (Parks & Wild. Code, Sec. 43.151.)

Source Law

> Sec. 43.151. THREATS TO PUBLIC SAFETY OR DAMAGE BY WILDLIFE; NOTICE OF WHITE-TAILED DEER POPULATION CONTROL IN CERTAIN AREAS. (a) A person who has

evidence clearly showing that wildlife protected by this code is causing serious damage to commercial agricultural, horticultural, or aquicultural interests, or is a threat to public safety, and who desires to kill the protected wildlife shall give written notice of the facts to the department.

(b) A political subdivision, a state agency, a federal agency, an institution of higher education, or a property owners' association as defined by Section 202.001, Property Code, that desires to control by lethal means a white-tailed deer population shall submit to the department written notice of evidence demonstrating:

(1) the use of lethal means is necessary to prevent the deer from damaging the habitat of one or more species listed by the United States Department of the Interior or an agency of this state as endangered or threatened; or

(2) the entity is experiencing an overpopulation of deer on property the entity owns or manages and recreational hunting is not feasible for controlling the deer population.

Revisor's Note

Section 43.151(a), Parks and Wildlife Code, refers to "aquicultural" interests. The revised law substitutes "aquacultural" for "aquicultural" because it is clear from the context that "aquicultural" is a typographical error and that the legislature intended to refer to "aquacultural" interests.

Revised Law

Sec. 5159.0902. INSPECTION AUTHORIZED. (a) On receiving notice under Section 5159.0901(a), the department may inspect the property and determine whether protected wildlife is a threat to public safety or causing serious damage as alleged in the notice.

(b) On receiving notice from an entity under Section 5159.0901(b), the department may inspect the habitat or property referenced in the notice to:

(1) assess deer management plans in the habitat relating to one or more species listed by the United States Department of the Interior or an agency of this state as endangered or threatened; or

(2) determine whether the entity is experiencing an overpopulation of white-tailed deer on the property and whether recreational hunting for controlling the deer population is feasible. (Parks & Wild. Code, Secs. 43.152(a), (c).)

Source Law

Sec. 43.152. DEPARTMENT INSPECTION. (a) On receiving notice from a person under Section 43.151(a), the department may inspect the property and determine if damage or a threat to public safety is occurring as alleged in the notice.

(c) On receiving notice from an entity under Section 43.151(b), the department may inspect the habitat or property referenced in the notice to:

(1) assess deer management plans in the habitat relating to one or more species listed by the United States Department of the Interior or an agency of this state as endangered or threatened; or

(2) determine whether the entity is experiencing an overpopulation of white-tailed deer on the property and whether recreational hunting for controlling the deer population is feasible.

Revised Law

Sec. 5159.0903. PERMIT APPLICATION. (a) A person described by Section 5159.0901(a) or an authorized representative of an entity described by Section 5159.0901(b) may file with the department an application for a permit to kill protected wildlife.

(b) The application must:

(1) be in writing;

(2) be sworn to by the applicant; and

(3) contain:

(A) a statement of facts relating to, as applicable:

(i) the threat or damage;

(ii) the feasibility of recreational hunting; or

(iii) the need to control overpopulation to prevent damage to the habitat of one or more species listed by the United States Department of the Interior or an agency of this state as endangered or threatened; and

(B) the applicant's agreement to comply with this subchapter and any commission rules adopted under this subchapter. (Parks & Wild. Code, Secs. 43.153(a), (b).)

Source Law

Sec. 43.153. APPLICATION FOR PERMIT. (a) A person described by Section 43.151(a) or an authorized representative of an entity described by Section

43.151(b) may file with the department an application for a permit to kill the protected wildlife.

(b) The application must be in writing, be sworn to by the applicant, and contain:

(1) a statement of facts relating to, as applicable:

(A) the damage or threat;

(B) the feasibility of recreational hunting; or

(C) the need to control overpopulation to prevent damage to the habitat of one or more species listed by the United States Department of the Interior or an agency of this state as endangered or threatened; and

(2) an agreement by the applicant to comply with the provisions of this subchapter and any rules adopted by the commission under this subchapter.

Revised Law

Sec. 5159.0904. APPLICATION FEE. (a) The fee for an application submitted under Section 5159.0903 is $50 or a greater amount set by the commission.

(b) The proceeds from the fee shall be deposited to the credit of the game, fish, and water safety account. (Parks & Wild. Code, Sec. 43.153(d).)

Source Law

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

Revisor's Note

Section 43.153(d), Parks and Wildlife Code, requires certain proceeds to be deposited in the "special game, fish, and water safety account." The revised law omits "special" because the official name of that account is the "game, fish, and water safety account," which is established under Section 11.031, Parks and Wildlife Code, revised in Section 2052.0301.

Revised Law

Sec. 5159.0905. PERMIT ISSUANCE. (a) Subject to Section 5159.0906, as soon as practicable but not later than the 10th business day after the date the department receives an application submitted under Section 5159.0903, the department shall:

(1) approve the application and issue the permit; or

(2) deny the application.

(b) The permit may authorize the killing of wildlife without regard to the applicable closed season or bag limit or the means and methods employed.

(c) The permit must specify:

(1) the period when the permit is valid;

(2) the area where the permit applies;

(3) the kind and number of wildlife authorized to be killed; and

(4) the persons permitted to kill the noxious wildlife. (Parks & Wild. Code, Secs. 43.154(a), (c).)

Source Law

> Sec. 43.154. PERMIT. (a) On receipt of an application, the department may issue a permit for the killing of wildlife without regard to the closed season, bag limit, or means and methods. As soon as practicable, but not later than the 10th business day after the date the department receives an application, the department shall approve or deny the application and, if the application is approved, issue the permit.
>
> (c) A permit must specify:
> (1) the period of time during which it is valid;
> (2) the area in which it applies;
> (3) the kind and number of wildlife authorized to be killed; and
> (4) the persons permitted to kill the noxious wildlife.

Revisor's Note

(1) Section 43.154(a), Parks and Wildlife Code, authorizes the Parks and Wildlife Department to issue a permit to kill certain wildlife. For the convenience of the reader, the revised law adds "[s]ubject to Section 5159.0906" to indicate to the reader that a limitation on the department's authority to issue the permit is included in that section.

(2) Section 43.154(a), Parks and Wildlife Code, refers to "an application" received by the Parks and Wildlife Department. It is clear from the context that the application referred to is a permit application authorized under Section 43.153, Parks and Wildlife

Code, revised in pertinent part as Section 5159.0903, and the revised law adds a reference to that section for clarity and the convenience of the reader.

Revised Law

Sec. 5159.0906. PERMIT TO KILL CERTAIN HOOVED ANIMALS. The department may not issue a permit under Section 5159.0905 to kill mule deer, pronghorn antelope, or desert bighorn sheep unless:

(1) the department has inspected the property and verified the occurrence of the threat to public safety or serious damage described in the notice submitted under Section 5159.0901(a);

(2) the department has recommended to the applicant ways to minimize the threat or damage; and

(3) the applicant has made a reasonable effort to comply with the department's recommendations under Subdivision (2). (Parks & Wild. Code, Sec. 43.154(a-1).)

Source Law

(a-1) The department may not issue a permit under this section for the killing of mule deer, pronghorn antelope, or desert bighorn sheep unless:

(1) the department 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;

(2) the department has made recommendations to the applicant regarding ways to minimize the damage or threat; and

(3) the applicant has made a reasonable effort to comply with the recommendations made by the department under this section.

Revisor's Note

(1) Section 43.154(a-1), Parks and Wildlife Code, prohibits the Parks and Wildlife Department from issuing a permit under Section 43.154 of that code for the killing of certain species except under the circumstances described by the provision. The pertinent part of Section 43.154 providing for the issuance of a permit is revised as Section 5159.0905, and the revised law is drafted accordingly.

(2) Section 43.154(a-1)(3), Parks and Wildlife

Code, refers to recommendations made by the Parks and Wildlife Department under Section 43.154 of that code. The pertinent part of Section 43.154 providing for department recommendations is revised as Subdivision (2) of this section, and the revised law is drafted accordingly.

Revised Law

Sec. 5159.0907. PERMIT DELIVERY. (a) The department shall deliver or mail a permit to kill protected wildlife issued under this subchapter to:

(1) the applicant; or

(2) the regional or local department office for collection by the applicant.

(b) The department may issue the permit electronically. (Parks & Wild. Code, Sec. 43.154(b).)

Source Law

(b) The department shall deliver or mail the permit, if issued, to the person requesting the permit or to the regional or local office of the department for pickup by the person. The department may issue the permit electronically.

Revisor's Note

Section 43.154(b), Parks and Wildlife Code, refers to the "person requesting the permit." For consistency in terminology used in this code, the revised law substitutes "applicant" for references to the "person requesting the permit" because, in context, the phrases are synonymous and "applicant" is more commonly used.

Revised Law

Sec. 5159.0908. STATE PERMIT NOT REQUIRED FOR KILLING CERTAIN MIGRATORY BIRDS AUTHORIZED UNDER FEDERAL PERMIT. A person is not required to hold a state permit authorizing the killing of migratory birds protected by the Migratory Bird Treaty Act (16 U.S.C. Section 703 et seq.) if the person holds a permit authorizing that activity issued by the United States Department of the

Interior or the United States Department of Agriculture. (Parks & Wild. Code, Sec. 43.154(d).)

Source Law

> (d) No state permit is required to authorize a person to kill migratory birds protected by the Federal Migratory Bird Treaty Act if the person has obtained a permit authorizing that activity from the United States Department of the Interior or the United States Department of Agriculture.

Revised Law

Sec. 5159.0909. PERMIT NOT REQUIRED TO TAKE CERTAIN FERAL HOGS. This subchapter does not prohibit a landowner or the landowner's agent or lessee from taking depredating feral hogs on the landowner's land without holding a permit issued under this subchapter. (Parks & Wild. Code, Sec. 43.158.)

Source Law

> Sec. 43.158. LANDOWNER PERMIT EXEMPTION. Nothing in this subchapter prevents a landowner or the landowner's agent or lessee from taking depredating feral hogs on the landowner's land without having acquired a permit under this subchapter.

Revised Law

Sec. 5159.0910. DISPOSITION OF WILDLIFE. (a) The holder of a permit issued under this subchapter or a person designated under Section 5159.0905(c)(4) who kills wildlife under the authority of the permit shall dispose of the carcass by donating it to:

(1) a charitable institution;

(2) a hospital;

(3) a needy person; or

(4) another appropriate recipient.

(b) The permit holder or person designated under Section 5159.0905(c)(4) may not keep or sell any part of wildlife taken under this subchapter, including antlers. (Parks & Wild. Code, Sec. 43.155.)

Source Law

> Sec. 43.155. DISPOSITION OF WILDLIFE. (a) The holder of a permit issued under this subchapter or a person designated by Section 43.154(c)(4) who kills wildlife under the authority of the permit shall dispose of the carcass by donating it to a charitable institution, a hospital, a needy person, or any other

appropriate recipient.

(b) The permit holder or a person designated under Section 43.154(c)(4) may not keep or sell any part of the wildlife taken under this subchapter, including antlers.

Revised Law

Sec. 5159.0911. PERMIT CANCELLATION. The department may cancel a permit issued under this subchapter if:

(1) the permit does not accomplish the permit's intended purposes; or

(2) the permit holder:

(A) intentionally made false claims on the permit application; or

(B) fails to submit a required report to the department. (Parks & Wild. Code, Sec. 43.156.)

Source Law

Sec. 43.156. CANCELLATION OF PERMIT. The department may cancel a permit if:

(1) the permit does not accomplish its intended purposes;

(2) the permit holder fails to submit a required report to the department; or

(3) the permit holder intentionally made false claims on the application for the permit.

Revised Law

Sec. 5159.0912. REINSTATEMENT OF CANCELED PERMIT. The department may reinstate a permit canceled under Section 5159.0911 if the person:

(1) submits an application for reinstatement in the manner required by Section 5159.0903 for an original permit; and

(2) pays a fee in an amount set by the commission. (Parks & Wild. Code, Sec. 43.1565.)

Source Law

Sec. 43.1565. REINSTATEMENT OF PERMIT. The department may 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.

Revisor's Note

Section 43.1565, Parks and Wildlife Code, refers to the manner of submission for an original permit application required by Section 43.153 of that code.

Section 43.153 is revised in pertinent part as Section 5159.0903, and the revised law is drafted accordingly.

Revised Law

Sec. 5159.0913. COMMISSION RULES. The commission may adopt rules to implement this subchapter, including rules governing:

(1) reports a permit holder is required to submit to the department under this subchapter;

(2) the reinstatement of a canceled permit and a reinstatement fee;

(3) the possession of wildlife resources taken or held under this subchapter;

(4) the circumstances required to qualify for a permit;

(5) the electronic issuance of a permit; and

(6) the means, methods, times, and locations of killing protected wildlife. (Parks & Wild. Code, Sec. 43.1515.)

Source Law

> Sec. 43.1515. RULES. The commission may adopt rules to implement this subchapter, including rules governing:
>
> (1) reports that must be submitted to the department by a person who holds a permit issued by the department under this subchapter;
>
> (2) the reinstatement of a canceled permit and a fee for the reinstatement;
>
> (3) the possession of wildlife resources taken or held under this subchapter;
>
> (4) the circumstances required to qualify for a permit;
>
> (5) the electronic issuance of permits; and
>
> (6) the means, methods, times, and locations of killing protected wildlife.

Revised Law

Sec. 5159.0914. CRIMINAL PENALTIES. (a) A person who holds a permit issued under this subchapter commits an offense if the person:

(1) disposes or allows the disposal of a wildlife carcass killed under the permit except as authorized by Section 5159.0910;

(2) violates a term of the permit; or

(3) violates a reporting requirement adopted under this subchapter.

(b) An offense under Subsection (a)(1) or (2) is a Class B Parks and Wildlife Code misdemeanor. An offense under Subsection (a)(3) is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 43.157.)

Source Law

Sec. 43.157. VIOLATIONS; PENALTY. (b) No permittee may dispose of a wildlife carcass killed under the permit or allow the wildlife to be disposed of except as allowed under Section 43.155 of this code.

(c) No permittee may violate a term or condition of the permit.

(d) Except as provided by Subsection (e), a person who violates this section commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

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

Revisor's Note
(End of Subchapter)

Section 43.152(b), Parks and Wildlife Code, provides that the Parks and Wildlife Department, after receiving notice under Section 43.151(a) of that code regarding a threat or damage caused by certain animals, may not issue a permit under Subchapter H, Chapter 43, of that code without first inspecting the property and determining whether a threat to public safety or serious damage is occurring. The revised law omits that provision because it duplicates in substance Section 43.154(a-1), Parks and Wildlife Code, revised as Section 5159.0906, which provides in part that the department may not issue a permit under that section without first inspecting the property and verifying the occurrence of the threat to public safety or serious damage as described in the notice under Section 43.151. The omitted law reads:

(b) If the notice received by the department under Section 43.151(a) alleges damage or a threat to public safety caused by mule deer, pronghorn antelope, or desert

bighorn sheep, the department may not issue a permit under Section 43.154 unless the department inspects the property and determines whether serious damage or a threat to public safety is occurring.

SUBCHAPTER J. CONSERVATION PERMIT

Revised Law

Sec. 5159.1001. SCOPE OF "USE OF LAND". For purposes of this subchapter, a use of land includes a use for a consumptive or nonconsumptive purpose. (Parks & Wild. Code, Sec. 43.521(a) (part).)

Source Law

(a) . . . For the purpose of this subchapter, a use of land includes any use for a consumptive or nonconsumptive purpose.

Revised Law

Sec. 5159.1002. DEPARTMENT AUTHORITY TO REQUIRE CONSERVATION PERMIT. (a) The department may require one person in each vehicle using land that is under the department's control and open to the public to hold a conservation permit the department or the department's agent issues to the person under this subchapter.

(b) The department may require each person to hold a conservation permit to participate in certain activities and enter certain facilities designated as a wildlife management area, a state natural area, or land not fully developed. (Parks & Wild. Code, Secs. 43.521(a) (part), (b).)

Source Law

Sec. 43.521. CONSERVATION PERMIT REQUIRED. (a) The department may require one person in each vehicle using land under the control of the department that is open to the public to possess a conservation permit issued to the person by the department or its agent under this subchapter. . . .

(b) The department may require each person to possess a conservation permit to participate in certain activities and to enter certain facilities designated as wildlife management areas, state natural areas or lands that have not been fully developed.

Revised Law

Sec. 5159.1003. EXCEPTIONS TO REQUIRED PERMIT. A person is not required to hold a conservation permit:

(1) to use land under the department's control for

hunting purposes if the person holds a current department-issued Type II hunting permit;

(2) at Washington-on-the-Brazos State Historic Site or San Jacinto Battleground State Historic Site;

(3) to attend a musical or theater production at Galveston Island State Park or Palo Duro Canyon State Park; or

(4) to use a state park for day use. (Parks & Wild. Code, Secs. 43.521(c), (d), (e).)

Source Law

(c) A person is not required to possess a conservation permit for use of land under the department's control for hunting purposes if the person possesses a current Type II hunting permit issued by the department.

(d) A person is not required to possess a conservation permit at Washington-on-the-Brazos or San Jacinto State Parks or to attend musical or theatrical productions at Galveston Island or Palo Duro State Parks.

(e) A person is not required to possess a conservation permit to utilize a state park for day use.

Revisor's Note

(1) Section 43.521(d), Parks and Wildlife Code, refers to "Washington-on-the-Brazos [and] San Jacinto State Parks." Chapter 178 (H.B. 1422), Acts of the 86th Legislature, Regular Session, 2019, transferred operational control of those parks to the Texas Historical Commission and renamed the parks "Washington-on-the-Brazos State Historic Site" and "San Jacinto Battleground State Historic Site," respectively. The revised law is drafted accordingly.

(2) Section 43.521(d), Parks and Wildlife Code, refers to "Palo Duro State Park." The revised law substitutes "Palo Duro Canyon State Park" for the quoted language to reflect the official name of the park.

Revised Law

Sec. 5159.1004. PERMIT ISSUANCE AND FEE. The department or the department's agent may issue a conservation permit to a person

on payment to the department or agent of a fee in an amount set by the commission. (Parks & Wild. Code, Sec. 43.522(a).)

Source Law

> Sec. 43.522. ISSUANCE AND EXPIRATION OF CONSERVATION PERMIT. (a) The department or its agent may issue a conservation permit to any person on the payment to the department or agent of a fee in an amount set by the commission.

Revised Law

Sec. 5159.1005. PERMIT TERM. A conservation permit expires on the first anniversary of the permit's date of issuance. (Parks & Wild. Code, Sec. 43.522(b).)

Source Law

> (b) A conservation permit expires on the first anniversary of the date on which it is issued.

Revised Law

Sec. 5159.1006. ADDITIONAL PERMIT, FEE, OR CHARGE REQUIREMENT NOT AFFECTED. (a) A conservation permit does not exempt the permit holder from a requirement authorized by law or commission rule to hold any other permit or pay any other fee or charge for entry to or use of land under the department's control.

(b) The department may grant to a conservation permit holder a discount on a charge for entry to and use of land. (Parks & Wild. Code, Sec. 43.523.)

Source Law

> Sec. 43.523. OTHER PERMITS REQUIRED. Possession of a conservation permit does not relieve the holder of the requirement for holding any other permit or paying any other fee or charge for the entrance to or use of land under the department's control that is authorized by law or rule of the commission, including Chapters 12, 21, and 81 of this code, however, the department may grant discounts on charges for entrance and use of land to holders of conservation permits.

Revisor's Note

Section 43.523, Parks and Wildlife Code, provides that the possession of a conservation permit does not relieve the holder of the requirement for holding any other permit or paying any other fee or charge for the entrance to or use of land under the Parks and Wildlife

Department's control that is authorized by law or rule of the Parks and Wildlife Commission, "including Chapters 12, 21, and 81 of this code." The revised law omits the quoted language as unnecessary because a permit, fee, or charge authorized by law or commission rule necessarily includes a permit, fee, or charge authorized under Chapter 12, 21, or 81.

Revised Law

Sec. 5159.1007. DISPOSITION AND USE OF NET REVENUE FROM PERMIT SALES. (a) After deducting any collection fee, a department agent shall send to the department the net revenue from the sale of conservation permits.

(b) The department may use the net revenue described by Subsection (a) only for the purpose of:

(1) acquiring, leasing, or developing state land;

(2) paying principal and interest on Texas Park Development Bonds; or

(3) operating land or facilities under the department's control. (Parks & Wild. Code, Sec. 43.524.)

Source Law

Sec. 43.524. DISPOSITION OF CONSERVATION PERMIT FEES. (a) After deducting any collection fee, an agent of the department shall send to the department the net receipts from the sale of conservation permits.

(b) The department may use the net receipts from the sale of conservation permits for the sole purpose of acquiring, leasing, or developing state lands, paying principal and interest on Texas Park Development Bonds, or operating land or facilities under the department's control.

Revisor's Note

Section 43.524, Parks and Wildlife Code, provides for the disposition of net "receipts" from the sale of conservation permits. The revised law substitutes "revenue" for "receipts" for the reason stated in the revisor's note to Section 5154.0110.

Revised Law

Sec. 5159.1008. EXHIBITING PERMIT; OFFENSE. (a) A person

using land under the department's control shall show a conservation permit issued to the person on demand of a peace officer or department employee unless the person:

(1) entered the land as an occupant of a privately owned, noncommercial vehicle in which at least one other occupant holds and is able to show a conservation permit issued to that occupant; or

(2) is a member of a group of individuals the department has exempted from the requirement to hold a conservation permit.

(b) A person commits an offense if the person violates this section. An offense under this subsection is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 43.525.)

Source Law

Sec. 43.525. FAILURE OR REFUSAL TO SHOW CONSERVATION PERMIT; PENALTY. (a) Except as provided by Subsection (b), a person commits an offense if the person is using land under the department's control and fails or refuses to show a conservation permit issued to the person on the demand of a game warden, peace officer, or department employee.

(b) It is not an offense under Subsection (a) if a person who is using land under the department's control fails to show a conservation permit on the demand of a game warden, peace officer, or department employee, and that person:

(1) entered land under the department's control as an occupant of a privately owned, noncommercial vehicle in which at least one other occupant possesses and is able to show a conservation permit issued to that other occupant; or

(2) is a member of a group of individuals that the department has exempted from the requirement for a conservation permit.

(c) An offense under this section is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 43.525(a), Parks and Wildlife Code, provides that a person using certain land commits an offense if the person fails or refuses to show a conservation permit on demand of a "game warden, peace officer, or department employee." For clarity, the revised law restates the provision as an affirmative duty to show the permit rather than a prohibition on

failing or refusing to show the permit and makes a violation of that duty an offense. Additionally, the revised law omits "game warden" for the reason stated in the revisor's note to Section 5103.0407.

SUBCHAPTER K. FISH BROOD STOCK PERMIT

Revised Law

Sec. 5159.1101. DEFINITION. In this subchapter, "commercial aquaculture facility" has the meaning assigned by Section 134.001, Agriculture Code. (Parks & Wild. Code, Sec. 43.551 (part).)

Source Law

> Sec. 43.551. PERMIT FOR THE TAKING OF BROOD STOCK BY COMMERCIAL AQUACULTURE FACILITIES. [The department may issue a permit to an operator of] a commercial aquaculture facility as defined by Section 134.001, Agriculture Code, [that authorizes the operator to take a specified quantity of fish brood stock from specified public water.]

Revisor's Note

Section 43.551, Parks and Wildlife Code, provides that the Parks and Wildlife Department may issue a permit to an "operator of a commercial aquaculture facility as defined by Section 134.001, Agriculture Code," authorizing the operator to take a specified quantity of fish brood stock. Although two subsequent provisions of Subchapter P, Chapter 43, Parks and Wildlife Code, use the term "commercial aquaculture facility" without definition, the term is being used in the context of a permit issued under that subchapter to an operator of a commercial aquaculture facility. For clarity, the revised law adds a definition of "commercial aquaculture facility" and applies that definition to the entire subchapter because it is clear from the context that the subsequent references to "operator of a commercial aquaculture facility" refer to an operator issued a permit under Section 43.551 and an operator issued a permit under that

section is an "operator of a commercial aquaculture facility as defined by Section 134.001, Agriculture Code."

Revised Law

Sec. 5159.1102. PERMIT AUTHORIZED. The department may issue to an operator of a commercial aquaculture facility a permit authorizing the operator to take a specified quantity of fish brood stock from specified public water. (Parks & Wild. Code, Sec. 43.551 (part).)

Source Law

> Sec. 43.551. PERMIT FOR THE TAKING OF BROOD STOCK BY COMMERCIAL AQUACULTURE FACILITIES. The department may issue a permit to an operator of a commercial aquaculture facility . . . that authorizes the operator to take a specified quantity of fish brood stock from specified public water.

Revised Law

Sec. 5159.1103. PERMIT ISSUANCE. The commission by rule shall prescribe the requirements and conditions for issuance of a fish brood stock permit. (Parks & Wild. Code, Sec. 43.552.)

Source Law

> Sec. 43.552. COMMISSION RULES. The commission by rule shall prescribe the requirements and conditions for issuance of a permit authorized by this subchapter.

Revised Law

Sec. 5159.1104. QUANTITY AUTHORIZED UNDER PERMIT. (a) A fish brood stock permit may authorize the permit holder to take a specified quantity of fish brood stock that is:

(1) reasonably necessary for the operation of the permit holder's commercial aquaculture facility; and

(2) limited, to the extent necessary, to protect the availability of fish in public water.

(b) The commission shall adopt rules setting guidelines regarding reasonable quantities of fish brood stock that may be taken under this subchapter. (Parks & Wild. Code, Sec. 43.553.)

Source Law

Sec. 43.553. QUANTITY THAT MAY BE TAKEN. (a) A

permit under this subchapter may allow the operator of a commercial aquaculture facility to take a specified quantity of fish brood stock reasonably necessary for the operation of the aquaculture facility but limited to the extent necessary to protect the availability of fish in public water.

(b) The commission's rules must set guidelines regarding reasonable quantities of fish brood stock that may be taken under this subchapter.

Revisor's Note

Section 43.553(a), Parks and Wildlife Code, provides that a fish brood stock permit may allow "the operator of a commercial aquaculture facility" to take a certain quantity of fish brood stock. For clarity and the convenience of the reader, the revised law substitutes "permit holder" for the quoted language because under Section 43.551, Parks and Wildlife Code, revised as Section 5159.1102, a fish brood stock permit may be issued only to an operator of a commercial aquaculture facility.

Revised Law

Sec. 5159.1105. PERMIT FEE. The commission shall charge a fish brood stock permit holder a fee in an amount equal to the value of the fish authorized to be taken under this subchapter. (Parks & Wild. Code, Sec. 43.554.)

Source Law

Sec. 43.554. FEES. The commission shall charge the operator of a commercial aquaculture facility a fee equal to the value of the fish authorized to be taken under this subchapter.

Revisor's Note

Section 43.554, Parks and Wildlife Code, refers to "the operator of a commercial aquaculture facility." The revised law substitutes "fish brood stock permit holder" for the quoted language for the reason stated in the revisor's note to Section 5159.1104.

Revised Law

Sec. 5159.1106. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter or a commission rule

adopted under this subchapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 43.555.)

Source Law

Sec. 43.555. PENALTIES. A person who violates this subchapter or a commission rule issued under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUBCHAPTER L. NONINDIGENOUS SNAKE PERMIT

Revised Law

Sec. 5159.1201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a nonindigenous snake, including a hybrid of any kind, that is:

(1) venomous; or

(2) one of the following constrictors:

(A) an African rock python (Python sebae);

(B) an Asiatic rock python (Python molurus);

(C) a Burmese python (Python bivittatus);

(D) a green anaconda (Eunectes murinus);

(E) a reticulated python (Python reticulatus); or

(F) a southern African python (Python natalensis). (Parks & Wild. Code, Sec. 43.851(a) (part).)

Source Law

(a) . . . a . . . nonindigenous snake, including a hybrid of any kind, that is:
(1) venomous; or
(2) a constrictor that is one of the following:
(A) African rock python, Python sebae;
(B) Asiatic rock python, Python molurus;
(C) Burmese python, Python bivittatus;
(D) green anaconda, Eunectes murinus;
(E) reticulated python, Python reticulatus; or
(F) southern African python, Python natalensis.

Revised Law

Sec. 5159.1202. NONINDIGENOUS SNAKE PERMIT REQUIRED.

Except as provided by Section 5159.1203, a person may not possess or transport in this state a snake to which this subchapter applies unless the person holds a nonindigenous snake permit issued by the department. (Parks & Wild. Code, Sec. 43.851(d).)

Source Law

> (d) Except as provided by Subsection (c), a person may not possess or transport in this state a snake described by Subsection (a) without a permit issued by the department under this subchapter.

Revisor's Note

Section 43.851(d), Parks and Wildlife Code, provides that a person may not possess or transport in this state "a snake described by Subsection (a)" unless the person holds "a permit issued by the department under this subchapter," meaning Subchapter V, Chapter 43, of that code, which is revised as this subchapter. The revised law substitutes "a snake to which this subchapter applies" for "a snake described by Subsection (a)" because the description in that subsection is revised as an applicability section for this subchapter. Additionally, the revised law substitutes "nonindigenous snake permit" for "permit" because the only permit issued under Subchapter V is a nonindigenous snake permit. The revised law also omits "under this subchapter" because nonindigenous snake permits are not issued under any other provision of the Parks and Wildlife Code or any other code.

Revised Law

Sec. 5159.1203. EXEMPTIONS. A person is exempt from the requirement to hold a nonindigenous snake permit under Section 5159.1202 if the person is:

(1) a state or county official performing an official duty;

(2) a licensed zoo possessing or transporting a snake for exhibition or scientific purposes;

(3) a research facility, including a university, licensed under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.), possessing or transporting a snake for scientific purposes; or

(4) a person assisting a department employee in handling or transporting a snake as authorized by this subchapter. (Parks & Wild. Code, Sec. 43.851(c).)

Source Law

> (c) A permit under this subchapter is not required for:
>
> (1) a state or county official performing an official duty;
>
> (2) a licensed zoo that possesses or transports a snake for exhibition or scientific purposes;
>
> (3) a research facility, including a university, licensed under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) that possesses or transports a snake for scientific purposes; or
>
> (4) a person who assists a department employee in the handling or transport of a snake under this subchapter.

Revised Law

Sec. 5159.1204. PERMIT ESTABLISHMENT AND ISSUANCE. (a) The commission by rule shall establish the nonindigenous snake permits required by Section 5159.1202.

(b) The commission shall establish separate nonindigenous snake permits for recreational and commercial purposes.

(c) The department may not issue a nonindigenous snake permit to a person convicted of an offense under Section 5159.1209 before the fifth anniversary of the date of the conviction. (Parks & Wild. Code, Secs. 43.851(a) (part), (b), (e).)

Source Law

> Sec. 43.851. PERMIT. (a) The commission by rule shall establish permits that allow permit holders to possess or transport in this state a live nonindigenous snake . . . .
>
> (b) The commission shall establish separate permits for recreational and commercial purposes.
>
> (e) A person convicted of a violation of this subchapter or a rule adopted under this subchapter may not obtain a permit before the fifth anniversary of the date of the conviction.

Revisor's Note

Section 43.851(e), Parks and Wildlife Code, provides that a person convicted of "a violation of this subchapter or a rule adopted under this subchapter," meaning Subchapter V, Chapter 43, of that code, may not obtain a nonindigenous snake permit before the fifth anniversary of the date of the conviction. For clarity, the revised law restates the provision as a restriction on the Parks and Wildlife Department's authority to issue a nonindigenous snake permit because under Section 43.851(d), Parks and Wildlife Code, revised as Section 5159.1202, the department is responsible for issuing those permits. Additionally, the revised law substitutes "an offense under Section 5159.1209" for "a violation of this subchapter or a rule adopted under this subchapter" for clarity and the convenience of the reader because Section 43.856, Parks and Wildlife Code, revised as Section 5159.1209, creates an offense for violating Subchapter V or a rule adopted under that subchapter and the referenced conviction is for an offense under that section.

Revised Law

Sec. 5159.1205. INSPECTION OF PERMIT OR RECORD. An authorized department employee may inspect at any time and without a warrant:

(1) a nonindigenous snake permit; or

(2) a record required under this subchapter. (Parks & Wild. Code, Sec. 43.852.)

Source Law

Sec. 43.852. INSPECTION OF PERMIT AND RECORDS. An authorized department employee may inspect at any time and without a warrant a permit or any records required by this subchapter.

Revised Law

Sec. 5159.1206. SEIZURE AND REMOVAL OF CONTRABAND SNAKE. (a) The department may arrange for the seizure and removal of a snake to which this subchapter applies from a person who possesses the snake without holding a nonindigenous snake permit required under Section 5159.1202.

(b) A person from whom a snake is seized under this section is responsible for any costs the department incurs in the seizure, removal, and disposition of the snake.

(c) A department employee is not required to handle, remove, or dispose of a snake seized under this section. The department may contract with a person who has knowledge of or expertise in handling a snake to which this subchapter applies to assist in the handling, removal, and disposition of the snake.

(d) The department, including a department enforcement officer acting under this section, is not liable in a civil action for the seizure, sale, donation, or other disposition of a snake under this section. (Parks & Wild. Code, Sec. 43.854.)

Source Law

> Sec. 43.854. SEIZURE OF CONTRABAND; FINANCIAL RESPONSIBILITY. (a) The department may arrange for the seizure and removal of a snake covered by this subchapter from a person who possesses the snake without the required permit. The person is responsible for any costs incurred by the department in the seizure, removal, and disposition of the snake.
>
> (b) A department employee is not required to handle, remove, or dispose of the snake.
>
> (c) The department may contract with a person who has knowledge of or expertise in the handling of a snake covered by this subchapter to assist the department in the handling, removal, and disposition of the snake.
>
> (d) The department, including an enforcement officer of the department, who acts under this section is not liable in a civil action for the seizure, sale, donation, or other disposition of the snake.

Revised Law

Sec. 5159.1207. RELEASE FROM CAPTIVITY PROHIBITED. A person may not intentionally, knowingly, recklessly, or with criminal negligence release or allow the release from captivity of a snake to which this subchapter applies. (Parks & Wild. Code, Sec.

43.853.)

Source Law

Sec. 43.853. RELEASE FROM CAPTIVITY. A person may not intentionally, knowingly, recklessly, or with criminal negligence release or allow the release from captivity of a snake covered by this subchapter.

Revised Law

Sec. 5159.1208. COMMISSION RULES. The commission may adopt rules to implement this subchapter, including rules governing:

(1) the possession or transportation of a snake to which this subchapter applies;

(2) permit application forms, fees, and procedures;

(3) the release of a snake to which this subchapter applies;

(4) reports the department may require a nonindigenous snake permit holder to submit to the department; and

(5) other matters the commission considers necessary to implement this subchapter. (Parks & Wild. Code, Sec. 43.855.)

Source Law

Sec. 43.855. RULES. The commission may adopt rules to implement this subchapter, including rules to govern:

(1) the possession or transport of a snake covered by this subchapter;

(2) permit application forms, fees, and procedures;

(3) the release of the snake;

(4) reports that the department may require a permit holder to submit to the department; and

(5) other matters the commission considers necessary.

Revised Law

Sec. 5159.1209. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter or a rule adopted under this subchapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor, except that the offense is:

(1) a Class B Parks and Wildlife Code misdemeanor if it is shown on the trial of the offense that the defendant:

(A) has engaged in a commercial activity without

holding a nonindigenous snake permit required under Section 5159.1202; and

(B) has previously been convicted of an offense under this section; or

(2) a Class A Parks and Wildlife Code misdemeanor if the offense is for a violation of Section 5159.1207 or a rule adopted to implement that section. (Parks & Wild. Code, Sec. 43.856.)

Source Law

Sec. 43.856. OFFENSE. (a) Except as provided by Subsection (b) or (c), a person who violates this subchapter or a rule adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person who violates Section 43.853 or a rule adopted to implement Section 43.853 commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

(c) If it is shown at the trial of the defendant for a violation of this subchapter or a rule adopted under this subchapter that the defendant has engaged in a commercial activity without holding a required permit and the defendant has been previously convicted of a violation of this subchapter or a rule adopted under this subchapter, on conviction the defendant shall be punished for a Class B Parks and Wildlife Code misdemeanor.

SUBCHAPTER M. FALCONRY PERMIT

Revised Law

Sec. 5159.1301. DEFINITION. In this subchapter, "falconry" means the practice of trapping, possessing, training, or flying a raptor for hunting purposes. The term includes hunting using a trained raptor. (Parks & Wild. Code, Sec. 49.001(3).)

Source Law

Sec. 49.001. DEFINITIONS. In this chapter:

(3) "Falconry" means the practice of trapping, possessing, training, or flying a raptor for hunting purposes and includes the act of hunting by the use of a trained raptor.

Revised Law

Sec. 5159.1302. DETERMINATION OF RESIDENCY STATUS. For purposes of this subchapter:

(1) a resident is an individual who has resided continuously in this state for more than six months immediately

before applying for a falconry permit; and

(2) a nonresident is an individual who is not a resident. (Parks & Wild. Code, Secs. 49.001(1), (2).)

Source Law

Sec. 49.001. DEFINITIONS. In this chapter:

(1) "Resident" means an individual who has resided continuously in this state for more than six months immediately before applying for a falconry permit.

(2) "Nonresident" means an individual who is not a resident.

Revised Law

Sec. 5159.1303. FALCONRY PERMIT REQUIRED. (a) Except as provided by Subsection (b), a person may not take, capture, or possess, or attempt to take or capture, a native raptor unless the person holds a falconry permit issued by the department.

(b) A nonresident may temporarily possess in this state or transport through this state a raptor if the nonresident:

(1) is authorized by state and federal permits to possess the raptor in the nonresident's state of residence; or

(2) holds a permit issued under another subchapter of this chapter. (Parks & Wild. Code, Sec. 49.002.)

Source Law

Sec. 49.002. PROHIBITED ACTS. (a) Except as provided in Subsection (b), no person may take, capture, or possess, or attempt to take or capture, any native raptors unless the person has obtained a permit issued by the department.

(b) A nonresident may temporarily possess in this state or transport through this state any raptor if the person is authorized by state and federal permits to possess the raptor in the person's state of residence or has been issued a permit under Chapter 43.

Revisor's Note

(1) Section 49.002(a), Parks and Wildlife Code, provides that a person may not take, capture, or possess, or attempt to take or capture, a native raptor unless the person has obtained a "permit" issued by the Parks and Wildlife Department. The revised law substitutes "falconry permit" for "permit" because it is clear from the context that the required permit must

be a permit issued under Chapter 49, Parks and Wildlife Code, revised as this subchapter, rather than any other permit issued by the department, and the only permit authorized under Chapter 49 is a falconry permit.

(2) Section 49.002(b), Parks and Wildlife Code, refers to a nonresident who has been issued a permit under Chapter 43 of that code. The pertinent parts of Chapter 43 providing for the issuance of permits under that chapter are revised in this chapter, and the revised law is drafted accordingly. Although this subchapter and Subchapter E of this chapter are not derived from Chapter 43, it is appropriate to refer to this chapter in its entirety because the provisions revised in Subchapter E do not authorize the issuance of a permit and the revised law adds language excluding permits issued under this subchapter.

Revised Law

Sec. 5159.1304. RECIPROCITY. (a) A person who possesses a raptor under a license issued by another state and who intends to establish residency in this state shall apply to the department for a falconry permit not later than the 10th day after the date the person first moves a raptor into this state.

(b) A person must submit with an application under this section a signed and notarized affidavit stating the person's intent to establish residency in this state. (Parks & Wild. Code, Sec. 49.003.)

Source Law

Sec. 49.003. RECIPROCITY. A person in possession of a raptor under a license issued by another state who intends to establish residency in this state must apply to the department for a falconry permit not later than the 10th day after the date the person first moves a raptor into this state. A signed and notarized affidavit stating the person's intent to establish residency in this state must accompany the application.

Revised Law

Sec. 5159.1305. HUNTING BY MEANS OF FALCONRY. (a) A resident may hunt by means of falconry if the resident holds:

(1) a falconry permit; and

(2) a hunting license issued under Chapter 5151.

(b) A nonresident may hunt by means of falconry if the nonresident holds and possesses on the nonresident's person:

(1) a federal falconry permit;

(2) a falconry permit issued by the nonresident's state of residence; and

(3) a nonresident hunting license issued under Chapter 5151 and any applicable stamps.

(c) A person may hunt a bird or animal by means of falconry only during the open season provided for that bird or animal. (Parks & Wild. Code, Sec. 49.010.)

Source Law

Sec. 49.010. HUNTING. (a) A resident possessing a falconry permit and a hunting license may hunt by means of falconry.

(b) A nonresident may hunt by means of falconry if the nonresident possesses on the nonresident's person:

(1) a federal falconry permit;

(2) a falconry permit issued in the person's state of residence; and

(3) a nonresident hunting license and any applicable stamps.

(c) A person may hunt a bird or animal by means of falconry only during an open season provided for that bird or animal.

Revisor's Note

Sections 49.010(a) and (b), Parks and Wildlife Code, refer to "a hunting license" and "a nonresident hunting license," respectively. For the convenience of the reader, the revised law adds a reference to Chapter 5151 of this code because that chapter contains the provisions governing the issuance of hunting licenses.

Revised Law

Sec. 5159.1306. PURCHASE, SALE, OR TRANSFER OF RAPTOR. (a)

Except as otherwise provided by this section, a person may not buy, sell, barter, or exchange, or offer to buy, sell, barter, or exchange, a raptor in this state.

(b) A falconry permit holder may transfer a raptor to or receive a raptor from another falconry permit holder.

(c) A falconry permit holder who qualifies as prescribed by a commission rule may:

(1) purchase a raptor from any legal source; and

(2) sell a captive-bred raptor to any person permitted to purchase a captive-bred raptor. (Parks & Wild. Code, Sec. 49.011.)

Source Law

Sec. 49.011. TRANSFER OR SALE OF RAPTORS. (a) Except as permitted in Subsections (b) and (c), no person may buy, sell, barter, or exchange, or offer to buy, sell, barter, or exchange, a raptor in this state.

(b) The holder of a falconer's permit may transfer a raptor to another holder of a falconer's permit or receive a raptor from another holder of a falconer's permit.

(c) A holder of a falconer's permit who qualifies as prescribed by commission rule may purchase raptors from any legal source and may sell captive-bred raptors to any person permitted to purchase captive-bred raptors.

Revisor's Note

Sections 49.011(b) and (c), Parks and Wildlife Code, refer to a "falconer's permit." For consistency in terminology used in this subchapter, the revised law substitutes "falconry permit" for "falconer's permit" because it is clear from the context that the terms are synonymous and "falconry permit" is more commonly used in Chapter 49, Parks and Wildlife Code, revised as this subchapter.

Revised Law

Sec. 5159.1307. RAPTOR REMAINS PROPERTY OF STATE. A raptor captured, taken, or held in this state remains the property of the people of this state except as provided by this subchapter. (Parks & Wild. Code, Sec. 49.012.)

Source Law

Sec. 49.012. PROPERTY OF STATE. All raptors captured, taken, or held in this state remain the property of the people of the state except as provided in this chapter.

Revised Law

Sec. 5159.1308. DEPARTMENT POWERS. The department may:

(1) adopt rules regarding:

(A) the taking, capture, possession, propagation, transportation, export, import, and sale of raptors;

(B) the time when and area where a raptor may be taken or captured; and

(C) the species that may be taken or captured;

(2) provide standards for possessing and housing raptors held under a permit;

(3) prescribe:

(A) annual reporting requirements and procedures; and

(B) eligibility requirements and fees for a falconry, raptor propagation, or nonresident trapping permit;

(4) issue falconry, raptor propagation, or nonresident trapping permits; and

(5) require and regulate the identification of a raptor held by a permit holder. (Parks & Wild. Code, Sec. 49.014.)

Source Law

Sec. 49.014. POWERS OF DEPARTMENT. The department may:

(1) prescribe rules for the taking, capture, possession, propagation, transportation, export, import, and sale of raptors, time and area from which raptors may be taken or captured, and species that may be taken or captured;

(2) provide standards for possessing and housing raptors held under a permit;

(3) prescribe annual reporting requirements and procedures;

(4) prescribe eligibility requirements and fees for and issue any falconry, raptor propagation, or nonresident trapping permit; and

(5) require and regulate the identification of raptors held by permit holders.

Revised Law

Sec. 5159.1309. TAKING AND POSSESSION OF RARE OR ENDANGERED

SPECIES. The department shall ensure the taking and possession for falconry purposes of raptors classified as rare or endangered by this state, department regulation, or the United States Fish and Wildlife Service are restricted to:

(1) competent and experienced individuals; and

(2) numbers consistent with good management practices and the current population status of the affected species or subspecies. (Parks & Wild. Code, Sec. 49.015.)

Source Law

Sec. 49.015. RARE OR ENDANGERED SPECIES. The department shall insure that the taking and possessing for falconry purposes of raptors classified as rare or endangered by this state, the regulations of the department, or the United States Bureau of Sports, Fisheries, and Wildlife are restricted to competent and experienced individuals and to numbers consistent with good management practices and the current population status of the individual species or subspecies involved.

Revisor's Note

Section 49.015, Parks and Wildlife Code, refers to the "United States Bureau of Sports, Fisheries, and Wildlife." The revised law substitutes "United States Fish and Wildlife Service" for the quoted language to reflect a change in the agency's name.

Revised Law

Sec. 5159.1310. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 49.017.)

Source Law

Sec. 49.017. PENALTIES. A person who violates a provision of this chapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUBCHAPTER N. FIELD TRIAL PERMIT FOR SQUIRREL, FUR-BEARING ANIMAL, OR NONGAME SPECIES

Revised Law

Sec. 5159.1401. DEFINITIONS. In this subchapter:

(1) "Field trial" means a competitive hunting dog

event where dogs chase or pursue squirrels, fur-bearing animals, or nongame species under field conditions.

(2) "Field trial permit" means a permit issued under this subchapter.

(3) "Fur-bearing animal" has the meaning assigned by Section 5205.0101.

(4) "Nongame species" has the meaning assigned by Section 5051.0101.

(5) "Squirrel" means a gray or cat squirrel, fox squirrel, or red squirrel. (Parks & Wild. Code, Sec. 43.251.)

Source Law

Sec. 43.251. DEFINITIONS. In this subchapter:

(1) "Field trial" means a competitive hunting dog event where dogs chase or pursue squirrels, fur-bearing animals, or nongame animals under field conditions.

(2) "Field trial permit" means a permit issued under Section 43.252.

(3) "Fur-bearing animal" has the meaning assigned by Section 71.001.

(4) "Nongame" has the meaning assigned by Section 67.001.

(5) "Squirrel" means gray or cat squirrels, fox squirrels, or red squirrels.

Revised Law

Sec. 5159.1402. COMMISSION RULES. (a) The commission may adopt rules as necessary to administer this subchapter, including rules necessary to manage and protect wildlife subject to a field trial permit.

(b) The commission shall adopt rules specifying the public land for which a field trial permit may be issued. (Parks & Wild. Code, Sec. 43.253.)

Source Law

Sec. 43.253. COMMISSION RULES. (a) The commission shall adopt rules specifying the public lands for which a field trial permit may be issued.

(b) The commission may adopt rules as necessary to administer this subchapter, including rules necessary to manage and protect wildlife subject to a field trial permit.

Revised Law

Sec. 5159.1403. PERMIT APPLICATION. (a) A person may apply to the department in the manner prescribed by commission rules for a

permit under this subchapter exempting registered participants in a field trial held by the person from the hunting license requirements of Chapter 5151 while the individuals are participating in the field trial.

(b) An application for a field trial permit must:

(1) be on a form the department prescribes; and

(2) contain:

(A) the applicant's name and address;

(B) the address of the property on which the field trial is to be held;

(C) the species of wildlife to be pursued in the field trial;

(D) if applicable, the name of the hunting dog club or organization sanctioning the field trial; and

(E) any other information the department requires. (Parks & Wild. Code, Secs. 43.252(a), (c).)

Source Law

Sec. 43.252. FIELD TRIAL PERMIT. (a) A person may apply to the department in the manner prescribed by commission rules for a permit under this section exempting registered participants in a field trial held by the person from the hunting license requirements of Chapter 42 while the individuals are participating in the field trial.

(c) An application for a field trial permit must:

(1) be on a form prescribed by the department; and

(2) contain the following information:

(A) the name and address of the applicant;

(B) the address of the property on which the field trial is to be held;

(C) the species of wildlife to be pursued in the field trial;

(D) if applicable, the name of the hunting dog club or organization sanctioning the field trial; and

(E) any other information required by the department.

Revised Law

Sec. 5159.1404. PERMIT ISSUANCE. The department may issue a field trial permit only for a field trial held on privately owned land or on public land authorized under commission rules adopted

under Section 5159.1402(b). (Parks & Wild. Code, Sec. 43.252(b).)

Source Law

(b) The department may issue a permit under this section only for a field trial held on privately owned land or on public land authorized under commission rules adopted under Section 43.253(a).

Revised Law

Sec. 5159.1405. PERMIT FEE. The fee for a field trial permit is $50. (Parks & Wild. Code, Sec. 43.252(d).)

Source Law

(d) The fee for a field trial permit is $50.

Revised Law

Sec. 5159.1406. PERMIT TERM AND VALIDITY. A field trial permit is valid:

(1) for a period of nine consecutive days; and

(2) only on the land specified in the permit. (Parks & Wild. Code, Sec. 43.252(e).)

Source Law

(e) A field trial permit is valid:
(1) for a period of nine consecutive days; and
(2) only on the land specified in the permit.

Revised Law

Sec. 5159.1407. EXEMPTION FROM HUNTING LICENSE REQUIREMENT. An individual registered to participate in a field trial held under a field trial permit is exempt from the hunting license requirements of Chapter 5151 while the individual is participating in the field trial. (Parks & Wild. Code, Sec. 43.254.)

Source Law

Sec. 43.254. HUNTING LICENSE NOT REQUIRED DURING FIELD TRIAL. An individual registered to participate in a field trial held under a field trial permit is exempt from the hunting license requirements of Chapter 42 while the individual is participating in the field trial.

CHAPTER 5198. MISCELLANEOUS PROVISIONS

Revised Law

Sec. 5198.0101. SOCIAL SECURITY NUMBERS OF CERTAIN MINORS.

(a) The commission may not adopt a rule that requires an applicant for a license under Chapter 5151, 5153, or 5155 who is 13 years of age or younger to provide the applicant's social security number.

(b) The commission by rule may require an applicant described by Subsection (a) or the applicant's parent or guardian to sign a statement that the applicant is not an obligor subject to a child support order. (Parks & Wild. Code, Sec. 11.005.)

Source Law

> Sec. 11.005. SOCIAL SECURITY NUMBERS OF CERTAIN MINORS. (a) The commission may not adopt rules that require a person 13 years of age or younger who applies for a license under Chapter 42, 46, or 50 to provide the applicant's social security number.
>
> (b) The commission may adopt a rule requiring an applicant described by Subsection (a) or the applicant's parent or guardian to sign a statement that the applicant is not an obligor subject to a child support order.

Revised Law

Sec. 5198.0102. VOLUNTARY CONTRIBUTION TO FUND FOR VETERANS' ASSISTANCE. (a) In this section, "fund for veterans' assistance" means the fund for veterans' assistance established under Section 434.017, Government Code.

(b) An applicant for a hunting or fishing license of any type under this code, including a combination hunting and fishing license, may make a voluntary contribution of $1, $5, $10, or $20 to the fund for veterans' assistance when applying for the license.

(c) The department shall:

(1) include space on the first page of each application for a hunting or fishing license that allows an applicant to indicate that the applicant is voluntarily contributing $1, $5, $10, or $20 to the fund for veterans' assistance; and

(2) provide an opportunity for an applicant for a hunting or fishing license to contribute $1, $5, $10, or $20 to the fund for veterans' assistance through the department's Internet website.

(d) The department shall send a contribution made under this

section to the comptroller for deposit to the credit of the fund for veterans' assistance not later than the 14th day of each month. Before sending the money, the department may deduct money equal to the amount of reasonable expenses for developing and administering this section. (Parks & Wild. Code, Sec. 12.007.)

Source Law

Sec. 12.007. VOLUNTARY CONTRIBUTION TO FUND FOR VETERANS' ASSISTANCE. (a) In this section, "veterans fund" means the fund for veterans' assistance established under Section 434.017, Government Code.

(b) When a person applies for a hunting or fishing license of any type, including a combination hunting and fishing license, under this code, the person may make a voluntary contribution of $1, $5, $10, or $20 to the veterans fund.

(c) The department shall:

(1) include space on the first page of each application for a hunting or fishing license that allows a person applying for the license to indicate that the person is voluntarily contributing $1, $5, $10, or $20 to the veterans fund; and

(2) provide an opportunity for the person to contribute $1, $5, $10, or $20 to the veterans fund during the application process for a hunting or fishing license on the department's Internet website.

(d) The department shall send any contribution made under this section to the comptroller for deposit in the state treasury to the credit of the fund for veterans' assistance not later than the 14th day of each month. Before sending the money to the veterans fund, the department may deduct money equal to the amount of reasonable expenses for developing and administering this section.

Revised Law

Sec. 5198.0103. ORGAN DONOR REGISTRY INFORMATION. The department shall include on the department's Internet website a link allowing a person to access the Glenda Dawson Donate Life-Texas Registry operated under Chapter 692A, Health and Safety Code, when applying for a hunting or fishing license, including a combination hunting and fishing license, through the department's Internet website. (Parks & Wild. Code, Sec. 12.0075.)

Source Law

Sec. 12.0075. ORGAN DONOR REGISTRY INFORMATION. The department shall add on the department's Internet website a link to the Glenda Dawson Donate Life-Texas Registry operated under Chapter 692A, Health and Safety Code, for persons to access when applying on the department's Internet website for a hunting or fishing license, including a combination hunting and fishing license.