PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Parks and Wildlife Code
Subtitle E, Title 5
5/5/26

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SUBTITLE E. PROVISIONS RELATING TO SPECIFIC TYPES OF LAND-BASED WILDLIFE

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TITLE 5. WILDLIFE AND PLANT MANAGEMENT AND CONSERVATION

SUBTITLE E. PROVISIONS RELATING TO SPECIFIC TYPES OF LAND-BASED WILDLIFE

CHAPTER 5201. GAME AND NONGAME ANIMALS

SUBCHAPTER A. GAME ANIMALS

Revised Law

Sec. 5201.0101. GAME ANIMALS. (a) Subject to Subsection (b), the following animals are game animals:

(1) collared peccary or javelina;

(2) desert bighorn sheep;

(3) fox or red squirrels;

(4) gray or cat squirrels;

(5) mule deer;

(6) pronghorn antelope; and

(7) white-tailed deer.

(b) A species of animal, including an animal listed in Subsection (a), is a game animal only if the species is indigenous to this state. (Parks & Wild. Code, Sec. 63.001.)

Source Law

> Sec. 63.001. GAME ANIMALS. (a) The following animals are game animals: mule deer, white-tailed deer, pronghorn antelope, desert bighorn sheep, gray or cat squirrels, fox squirrels or red squirrels, and collared peccary or javelina.
>
> (b) No species of any animal set out in Subsection (a) of this section or any other animal is a game animal if it is not indigenous to this state.

Revised Law

Sec. 5201.0102. POSSESSION OF LIVE GAME ANIMAL; OFFENSE. (a) A person may not possess a live game animal in this state except for a purpose authorized by this code.

(b) A person commits an offense if the person violates this section. An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 63.002, 63.104(c) (part).)

Source Law

Sec. 63.002. POSSESSION OF LIVE GAME ANIMALS. No person may possess a live game animal in this state for any purpose not authorized by this code.

[Sec. 63.104]

(c) A person who violates Section 63.002 or . . . of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUBCHAPTER B. REGULATION OF CERTAIN NONGAME ANIMALS

Revised Law

Sec. 5201.0201. BATS; OFFENSE. (a) Except as otherwise provided by this section, a person may not:

(1) hunt a bat; or

(2) sell, offer for sale, purchase, offer to purchase, or possess after purchase a bat or any part of a bat, regardless of whether the bat is dead or alive.

(b) A person may remove or hunt a bat if the bat is inside or on a building occupied by people.

(c) Subsection (a) does not apply to:

(1) an animal control officer, peace officer, or health official who captures a bat that the officer or official considers injured or diseased;

(2) a person who transports a bat for laboratory testing if the bat has exposed or potentially exposed humans or domestic animals to rabies; or

(3) a person licensed to provide pest control services.

(d) A person commits an offense if the person violates this section. An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Secs. 63.101, 63.104(c) (part).)

Source Law

Sec. 63.101. PROTECTION OF BATS. (a) Except as provided by Subsections (b) and (c), no person may:

(1) hunt a bat; or

(2) sell, offer for sale, purchase, offer to purchase, or possess after purchase a bat or any part of a bat, dead or alive.

(b) A bat may be removed or hunted if the bat is inside or on a building occupied by people.

(c) This section does not apply to:

(1) an animal control officer, a peace officer, or a health official who captures a bat that the officer or official considers injured or diseased;

(2) a person who transports a bat for the purpose of laboratory testing if the bat has exposed or potentially exposed humans or domestic animals to rabies; or

(3) a person who is licensed to provide pest control services.

[Sec. 63.104]

(c) A person who violates Section . . . 63.101 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 63.101(c), Parks and Wildlife Code, provides that "[t]his section," meaning Section 63.101 of that code, does not apply to certain officers or officials who capture a bat that may be injured or diseased, a person who transports certain bats for laboratory testing, or a person licensed to provide pest control services. Section 63.101(a), Parks and Wildlife Code, revised as Subsection (a) of this section, prohibits a person from hunting a bat or selling, offering for sale, purchasing, offering to purchase, or possessing after purchase a bat or any part of a bat. Section 63.101(b), Parks and Wildlife Code, revised as Subsection (b) of this section, authorizes the removal or hunting of a bat that is inside or on a building occupied by people. For clarity, the revised law substitutes "Subsection (a)" for "[t]his section" because it is clear from the context that Section 63.101(c) is intended to except the persons described by that subsection from the prohibition under Section 63.101(a) rather than to prohibit those persons from removing or hunting a bat under Section 63.101(b).

Revised Law

Sec. 5201.0202. WOLVES; OFFENSE. (a) Except as provided by Subsection (b), a person may not possess, transport, receive, or

release a live wolf in this state.

(b) Subsection (a) does not apply to:

(1) the transportation of a wolf by a state or county official while performing an official duty; or

(2) the possession or transportation of a wolf by the owner or agent of a licensed circus, zoo, or menagerie for exhibition or scientific purposes.

(c) A person commits an offense if the person violates this section. An offense under this section is a Parks and Wildlife Code felony. (Parks & Wild. Code, Secs. 63.102, 63.104(a).)

Source Law

> Sec. 63.102. WOLVES. (a) No person may possess, transport, receive, or release a live wolf in this state.
>
> (b) Subsection (a) does not apply to the transportation of a wolf by a state or county official while performing an official duty or to the possession or transportation of a wolf by the owner or agent of a licensed circus, zoo, or menagerie for exhibition or scientific purposes.
>
> Sec. 63.104. PENALTIES. (a) A person who violates Section 63.102 of this code commits an offense that is a Parks and Wildlife Code felony.

Revised Law

Sec. 5201.0203. ARMADILLOS; OFFENSE. (a) In this section, "zoo" means a publicly or privately owned establishment that:

(1) has a permanent place of business open to the public; and

(2) displays 15 or more different species of wildlife.

(b) Except as provided by Subsection (c), a person may not sell or possess for sale in this state a live armadillo.

(c) Subsection (b) does not apply to the sale of an armadillo:

(1) by or to a zoo;

(2) to an educational institution or a medical or research center for scientific purposes as authorized by a permit issued under Subchapter G, Chapter 5159; or

(3) to a commercial dealer who resells the armadillo for a purpose authorized by Subdivision (1) or (2).

(d) A peace officer who has probable cause to believe that an armadillo has been sold or possessed for sale in violation of Subsection (b) may seize the armadillo and hold the armadillo for observation to determine if the armadillo has rabies or another communicable disease harmful to humans or other animals. If the armadillo is free from disease, the officer may release the armadillo or, if the armadillo is otherwise dangerous or harmful, may destroy the armadillo. If the armadillo is diseased, the armadillo must be destroyed.

(e) A peace officer is immune from liability for exercising a duty under Subsection (d).

(f) A person commits an offense if the person violates this section. An offense under this section is a Class B Parks and Wildlife Code misdemeanor.

(g) A person convicted of an offense under this section shall pay all costs and expenses incurred under Subsection (d) in addition to the penalty under Subsection (f). (Parks & Wild. Code, Secs. 63.103, 63.104(b).)

Source Law

Sec. 63.103. SALE OF CERTAIN LIVE ANIMALS. (a) No person may sell or possess for the purpose of sale in this state a living armadillo.

(b) This section does not apply to:

(1) the sale of an animal by or to a zoo;

(2) the sale of an animal to an educational institution or a medical or research center for scientific purposes as authorized by a permit issued under Subchapter C, Chapter 43, of this code; or

(3) the sale to a commercial dealer who in turn resells for purposes authorized in Subdivisions (1) and (2) of this subsection.

(c) In this section, "zoo" means a publicly or privately owned establishment that has a permanent place of business open to the public and that displays 15 or more different species of wildlife.

(d) A peace officer who has probable cause to believe that an animal has been sold or held for sale in violation of Subsection (a) of this section may seize the animal and hold it for observation to determine if the animal has rabies or any other communicable disease harmful to man or other animals. If the animal is free from disease, the officer may release the animal or, if the animal is otherwise dangerous or harmful, may destroy it. If the animal is diseased, it shall be destroyed. An officer exercising the duties under this section is immune from liability.

(e) A person who violates Subsection (a) of this

section, in addition to the penalties under Section 63.104 of this code, on conviction shall pay all costs and expenses incurred under Subsection (d) of this section.

[Sec. 63.104]

(b) A person who violates Section 63.103 of this code commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 63.103(b), Parks and Wildlife Code, provides that the section does not apply to certain sales of an "animal." Section 63.103(d), Parks and Wildlife Code, allows a peace officer to seize, hold, release, and destroy an "animal" under certain circumstances. For clarity and consistency in terminology used in this section, the revised law substitutes "armadillo" for the references to "animal" because it is clear from the context that the only animal to which the section applies is an armadillo.

CHAPTER 5202. BIRDS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5202.0101. GAME BIRDS. The following birds are game birds:

(1) chachalacas; and

(2) the following wild birds:

(A) band-tailed pigeons;

(B) bobwhite quail;

(C) brant;

(D) ducks of all varieties;

(E) Gambel's quail;

(F) geese of all varieties;

(G) grouse;

(H) Mearn's quail;

(I) mourning doves;

(J) partridge;

(K) pheasants of all varieties;

(L) plover of all varieties;

(M) prairie chickens;

(N) red-billed pigeons;

(O) sandhill cranes;

(P) scaled quail;

(Q) shore birds of all varieties;

(R) snipe of all varieties;

(S) turkey;

(T) white-fronted doves; and

(U) white-winged doves. (Parks & Wild. Code, Sec. 64.001.)

Source Law

Sec. 64.001. GAME BIRDS. Wild turkey, wild ducks of all varieties, wild geese of all varieties, wild brant, wild grouse, wild prairie chickens, wild pheasants of all varieties, wild partridge, wild bobwhite quail, wild scaled quail, wild Mearn's quail, wild Gambel's quail, wild red-billed pigeons, wild band-tailed pigeons, wild mourning doves, wild white-winged doves, wild white-fronted doves, wild snipe of all varieties, wild shore birds of all varieties, chachalacas, wild plover of all varieties, and wild sandhill cranes are game birds.

SUBCHAPTER B. GAME BIRDS GENERALLY

Revised Law

Sec. 5202.0201. POSSESSION OF LIVE GAME BIRD. A person may not possess a live game bird in this state except as authorized by this code. (Parks & Wild. Code, Sec. 64.007.)

Source Law

Sec. 64.007. POSSESSION OF LIVE GAME BIRDS. No person may possess a live game bird in this state except as authorized by this code.

Revised Law

Sec. 5202.0202. TRAPPING GAME BIRDS; PERMIT REQUIRED. A person may not set a trap, net, or other device for taking game birds or take or snare a game bird by a device unless the person holds a permit issued by the department authorizing that conduct. (Parks & Wild. Code, Sec. 64.004.)

Source Law

Sec. 64.004. TRAPPING GAME BIRDS. No person may

set a trap, net, or other device for taking game birds or take or snare a game bird by a device without obtaining a permit from the department.

Revisor's Note

Section 64.004, Parks and Wildlife Code, prohibits a person from engaging in certain conduct related to a game bird without obtaining "a permit" from the Parks and Wildlife Department. The revised law clarifies that the permit must authorize the otherwise prohibited conduct because it is clear from the context that Section 64.004 requires the referenced permit to authorize the conduct.

Revised Law

Sec. 5202.0203. DESTROYING NESTS, EGGS, OR YOUNG. A person may not destroy or take the nest, eggs, or young of a wild game bird protected by this code except as provided in this code. (Parks & Wild. Code, Sec. 64.003 (part).)

Source Law

Sec. 64.003. DESTROYING NESTS OR EGGS. No person may destroy or take the nest, eggs, or young of any wild game bird, . . . protected by this code except as provided in this code.

Revised Law

Sec. 5202.0204. 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. 64.005.)

Source Law

Sec. 64.005. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUBCHAPTER C. NONGAME BIRDS GENERALLY

Revised Law

Sec. 5202.0301. PROHIBITED ACTS. Except as otherwise provided by this code, a person may not:

(1) catch, kill, injure, pursue, or possess, dead or alive, a bird that is not a game bird;

(2) purchase, sell, offer for sale, transport, ship,

or receive or deliver for transportation a bird that is not a game bird;

(3) possess any part of the plumage, skin, or body of a bird that is not a game bird; or

(4) disturb, destroy, or take the eggs, nest, or young of a bird that is not a game bird, including a wild bird or wild fowl. (Parks & Wild. Code, Secs. 64.002(a), 64.003 (part).)

Source Law

Sec. 64.002. PROTECTION OF NONGAME BIRDS. (a) Except as provided by this code, no person may:

(1) catch, kill, injure, pursue, or possess, dead or alive, or purchase, sell, expose for sale, transport, ship, or receive or deliver for transportation, a bird that is not a game bird;

(2) possess any part of the plumage, skin, or body of a bird that is not a game bird; or

(3) disturb or destroy the eggs, nest, or young of a bird that is not a game bird.

Sec. 64.003. DESTROYING NESTS OR EGGS. No person may destroy or take the nest, eggs, or young of any . . . wild bird, or wild fowl protected by this code except as provided in this code.

Revisor's Note

Section 64.002(a), Parks and Wildlife Code, provides that a person may not "expose" for sale a bird that is not a game bird. The revised law substitutes "offer" for "expose" because, in context, the terms are synonymous and "offer" is more commonly used.

Revised Law

Sec. 5202.0302. KILLING OF CERTAIN BIRDS AUTHORIZED. (a) A person may kill at any time and in any manner, or destroy the nest or egg of, an English sparrow, European starling, or feral rock dove (Columba livia).

(b) Conduct described by Subsection (a) does not constitute an offense under Chapter 42, Penal Code. (Parks & Wild. Code, Sec. 64.002(b).)

Source Law

(b) European starlings, English sparrows, and feral rock doves (Columba livia) may be killed at any time in any manner and their nests or eggs may be destroyed, and such conduct does not constitute an offense under Chapter 42, Penal Code.

Revised Law

Sec. 5202.0303. CONTROL OF CERTAIN BIRDS CAUSING DEPREDATION, HEALTH HAZARD, OR OTHER NUISANCE. (a) This section applies only to:

(1) a yellow-headed, red-winged, rusty, or Brewer's blackbird;

(2) a cowbird;

(3) a crow;

(4) a grackle; and

(5) a magpie.

(b) A person is not required to hold a permit to control a bird to which this section applies that is:

(1) committing or about to commit depredations on:

(A) agricultural crops;

(B) livestock;

(C) ornamental or shade trees; or

(D) wildlife; or

(2) concentrated in numbers and in a manner that constitutes a health hazard or other nuisance. (Parks & Wild. Code, Sec. 64.002(c).)

Source Law

(c) A permit is not required to control yellow-headed, red-winged, rusty, or Brewer's blackbirds or all grackles, cowbirds, crows, or magpies when found committing or about to commit depredations on ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in numbers and in a manner that constitutes a health hazard or other nuisance.

Revised Law

Sec. 5202.0304. EXOTIC NONGAME BIRD AS DOMESTIC PET. A person may sell, purchase, or keep as a domestic pet an exotic nongame bird, including a canary or parrot. (Parks & Wild. Code, Sec. 64.002(d).)

Source Law

(d) Canaries, parrots, and other exotic nongame birds may be sold, purchased, and kept as domestic pets.

Revised Law

Sec. 5202.0305. 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. 64.005.)

Source Law

Sec. 64.005. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUBCHAPTER D. MIGRATORY GAME BIRDS

Revised Law

Sec. 5202.0401. DEFINITIONS. In this subchapter:

(1) "Migratory game bird" means:

(A) a band-tailed pigeon;

(B) a mourning dove;

(C) a red-billed pigeon;

(D) a sandhill crane;

(E) a shore bird of any variety;

(F) a white-fronted dove;

(G) a white-winged dove;

(H) a wild brant of any species;

(I) a wild coot;

(J) a wild duck of any species;

(K) a wild gallinule;

(L) a wild goose of any species;

(M) a wild plover;

(N) a wild rail;

(O) a Wilson's snipe or jack snipe; and

(P) a woodcock.

(2) "Open season" means the period when it is lawful to take a migratory game bird. (Parks & Wild. Code, Sec. 64.021.)

Source Law

Sec. 64.021. DEFINITIONS. In this subchapter:

(1) "Migratory game bird" means wild ducks of all species, wild geese and wild brant of all species, wild coot, wild rail, wild gallinules, wild plovers, Wilson's snipe or jack snipe, woodcock,

mourning doves, white-winged doves, white-fronted doves, red-billed pigeons, band-tailed pigeons, shore birds of all varieties, and sandhill cranes.

(2) "Open season" means the period of time when it is lawful to take, kill, or pursue, or attempt to take or kill migratory game birds.

Revisor's Note

Section 64.021(2), Parks and Wildlife Code, defines "open season" to mean the period of time when it is lawful to "take, kill, or pursue, or attempt to take or kill" migratory game birds. Sections 1.101(1) and (5), Parks and Wildlife Code, revised in Section 1001.0104, define "hunt" and "take," respectively, for purposes of the code. Section 1.101(5) defines "take" to mean in pertinent part "hunt," and the definition includes "an attempt to take or to pursue in order to take." Section 1.101(1) defines "hunt" to mean in pertinent part "kill, or attempt to . . . kill." Accordingly, the revised law omits "kill, or pursue, or attempt to take or kill" as included in the meaning of "take."

Revised Law

Sec. 5202.0402. COMMISSION POWERS AND DUTIES. (a) The commission shall establish the open season and means, methods, and devices for hunting and possessing migratory game birds.

(b) The commission may delegate the authority under Subsection (a) to the executive director. (Parks & Wild. Code, Sec. 64.022.)

Source Law

Sec. 64.022. AUTHORITY OF COMMISSION. The commission shall provide the open season and means, methods, and devices for the hunting and possessing of migratory game birds and may delegate that authority to the executive director.

Revised Law

Sec. 5202.0403. OPEN SEASON; REGULATIONS. (a) An open season may be established only for the length of time justified by the supply of the migratory game bird species affected in this state or in the zone or section of this state where the open season

applies.

(b) Before a regulation may be adopted on an open season for a migratory game bird, the department must conduct an investigation to determine whether the supply of the migratory game bird is sufficient. The regulation may be adopted if the department determines that the supply is sufficient. (Parks & Wild. Code, Secs. 64.023, 64.024(a).)

Source Law

> Sec. 64.023. OPEN SEASON. An open season may be provided only for the length of time justified by the supply of the species of migratory game bird affected in this state or in the zone or section of this state where the open season applies.
>
> Sec. 64.024. REGULATIONS. (a) The department shall conduct investigations prior to the issuance of regulations on an open season for a migratory game bird. The regulation may be issued if the supply of the migratory game bird is sufficient.

Revisor's Note

> Section 64.024(a), Parks and Wildlife Code, refers to a regulation "issued" by the Parks and Wildlife Department following investigations conducted by the department. Throughout this subchapter, the revised law substitutes "adopted" for "issued" to provide consistency in terminology and because, in context, the terms are synonymous.

Revised Law

Sec. 5202.0404. EMERGENCY REGULATIONS. The commission may adopt an emergency regulation governing the hunting or possession of migratory game birds if the commission finds that an emergency condition affecting the supply or condition of migratory game birds exists. (Parks & Wild. Code, Sec. 64.024(b).)

Source Law

> (b) The commission may adopt an emergency regulation governing the hunting or possession of migratory game birds if the commission finds that an emergency condition affecting the supply or condition of migratory game birds exists.

Revised Law

Sec. 5202.0405. SUIT TO DETERMINE VALIDITY OF REGULATION.

(a) A party affected by and dissatisfied with a regulation adopted under this subchapter may file suit against the department to challenge the validity of the regulation.

(b) Venue for a suit filed under this section is in Travis County. (Parks & Wild. Code, Sec. 64.025.)

Source Law

> Sec. 64.025. SUIT. A party affected by and dissatisfied with a regulation issued under this subchapter may file suit against the department to test the validity of the regulation in a court of competent jurisdiction in Travis County.

Revisor's Note

> Section 64.025, Parks and Wildlife Code, provides that a party may file suit in a "court of competent jurisdiction." The revised law omits "court of competent jurisdiction" as unnecessary. The determination of whether a particular court has jurisdiction over a matter is made under other law, and it is not necessary to refer to that determination in this section. The revised law also omits the reference to the suit being filed in a court as unnecessary because venue for a suit is always in a court.

Revised Law

Sec. 5202.0406. PROHIBITED ACTS. A person may not hunt or possess a migratory game bird by any means or method except as provided by regulation adopted under this code. (Parks & Wild. Code, Sec. 64.026.)

Source Law

> Sec. 64.026. PROHIBITED ACTS. No person may hunt or possess a migratory game bird by any means or method except as provided by regulation issued under this code.

Revised Law

Sec. 5202.0407. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter or a department regulation adopted under this subchapter.

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

Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 64.027.)

Source Law

Sec. 64.027. PENALTY. A person who violates a provision of this subchapter or a regulation of the department adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SUBCHAPTER E. TURKEYS

Revised Law

Sec. 5202.0501. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a turkey maintained for agricultural purposes. (Parks & Wild. Code, Sec. 64.006(d).)

Source Law

(d) This section does not apply to any turkeys maintained for agricultural purposes.

Revised Law

Sec. 5202.0502. PROHIBITED ACTS; OFFENSE. (a) Except as otherwise provided by this subchapter, a person may not propagate, purchase, sell, transport, or release a turkey for the purpose of establishing a free-ranging wild turkey population.

(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, Secs. 64.005, 64.006(a).)

Source Law

Sec. 64.005. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Sec. 64.006. RELEASE OF TURKEYS. (a) Except as provided by this section, no turkeys may be propagated, purchased, sold, transported, or released for the purpose of establishing a free-ranging wild turkey population.

Revised Law

Sec. 5202.0503. DEPARTMENT POWERS. (a) The department may release turkeys in certain areas of the state for the purpose of maintaining a wild turkey population.

(b) The department may contract with private sector sources to release wild turkeys in certain areas of the state for the purpose of maintaining or expanding a wild turkey population.

(c) The department may adopt regulations on the release of turkeys by persons other than department employees. (Parks & Wild. Code, Secs. 64.006(b), (c), (e).)

Source Law

(b) The department may release turkeys in certain areas of the state for the purpose of maintaining a wild turkey population.

(c) The department may adopt regulations regulating the release of turkeys by persons other than department employees.

(e) The department may contract with private sector sources to release wild turkeys in certain areas of the state for the purpose of maintaining or expanding a wild turkey population.

SUBCHAPTER F. EAGLES

Revised Law

Sec. 5202.0601. PERMIT REQUIRED. A person may not hunt a golden eagle or Mexican brown eagle unless the person holds a permit issued by the department under Subchapter I, Chapter 5159, with respect to the eagle. (Parks & Wild. Code, Sec. 64.011.)

Source Law

Sec. 64.011. EAGLE. No person may hunt, trap, or kill a golden eagle or Mexican brown eagle without first having obtained a permit from the department as provided by Subchapter H, Chapter 43, of this code.

Revisor's Note

Section 64.011, Parks and Wildlife Code, provides that a person may not "hunt, trap, or kill" a golden eagle or Mexican brown eagle without first having obtained a permit from the Parks and Wildlife Department. The revised law omits "trap, or kill" as redundant because Section 1.101(1), Parks and Wildlife Code, revised in Section 1001.0104, defines "hunt" for purposes of the code to mean in pertinent part "capture, trap, take, or kill." Additionally, the revised law clarifies that the permit must authorize the otherwise prohibited conduct with respect to a golden eagle or Mexican brown eagle, as applicable, because it is clear from the context that Section

64.011 requires the referenced permit to authorize the conduct with respect to the eagle.

CHAPTER 5203. DANGEROUS WILD ANIMALS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5203.0101. DEFINITIONS. In this chapter:

(1) "Captivity" means the state of being held under control or being kept caged or penned.

(2) "Dangerous wild animal" means a bear, cheetah, elephant, hyena, leopard, African or Asiatic lion, rhinoceros, tiger, or wolf or any species, subspecies, or hybrid of any of those animals.

(3) "Hybrid" means an offspring of two animals of different breeds, species, or genera.

(4) "Sanctuary" means a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced dangerous wild animals are provided care for the animals' lifetime or until released back to the animals' natural habitat. (Parks & Wild. Code, Sec. 62.101.)

Source Law

Sec. 62.101. DEFINITIONS. In this subchapter:
(1) "Captivity" means the state of being held under control or kept caged or penned.
(2) "Dangerous wild animal" means a lion, tiger, leopard, cheetah, hyena, bear, elephant, wolf, or rhinoceros and includes any species, subspecies, or hybrid of any of those animals.
(3) "Hybrid" means an offspring of two animals of different breeds, species, or genera.
(4) "Lion" means African and Asiatic lion.
(5) "Sanctuary" means a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced dangerous wild animals are provided care for their lifetime or until released back to their natural habitat.

Revised Law

Sec. 5203.0102. APPLICABILITY OF CHAPTER TO CERTAIN PERSONS; IMMUNITY. (a) This chapter does not apply to:

(1) a peace officer or other employee of a municipality, a county, or this state while acting in an official capacity, or a person acting at the direction of the officer or

employee acting in an official capacity, who injures or kills a dangerous wild animal that the officer or employee reasonably believes to present, under the circumstances, the possibility of danger to the public; or

(2) a licensed veterinarian or an employee of a sanctuary exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code, or of a facility accredited by the Association of Zoos and Aquariums, who, while in the course of that employment, humanely euthanizes a dangerous wild animal to eliminate the suffering of the animal due to illness or injury.

(b) A person described by Subsection (a)(1) or (2) is immune from criminal or civil liability and from prosecution or civil suit for causing injury or death to the dangerous wild animal. (Parks & Wild. Code, Sec. 62.106.)

Source Law

> Sec. 62.106. EXCEPTIONS. (a) This subchapter does not apply to a peace officer or other employee of a municipality, a county, or this state, or a person acting at the direction of such an officer or employee, who, while acting in an official capacity or at the direction of such an officer or employee acting in an official capacity, injures or kills a dangerous wild animal that the officer or employee reasonably believes to present, under the circumstances, the possibility of danger to the public. A person described by this subsection is immune from criminal or civil liability and from prosecution or civil suit for causing injury or death to the animal.
>
> (b) This subchapter does not apply to a licensed veterinarian or an employee of a sanctuary exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. Section 501) or of a facility accredited by the Association of Zoos and Aquariums, who, while in the course of such employment, humanely euthanizes a dangerous wild animal to eliminate the suffering of that animal due to illness or injury. A person described by this subsection is immune from criminal or civil liability and from prosecution or civil suit for causing injury or death to the animal.

Revisor's Note

Section 62.106, Parks and Wildlife Code, refers to a licensed veterinarian or an employee of a sanctuary "exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986 (26

U.S.C. Section 501)." The revised law substitutes "exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code" for the quoted language for clarity and to more accurately reflect the structure of the applicable federal income tax exemption.

Revised Law

Sec. 5203.0103. EFFECT ON LOCAL GOVERNMENT AUTHORITY. This chapter does not restrict the authority of a local government to regulate the possession of a dangerous wild animal if the regulation does not conflict with this chapter. (Parks & Wild. Code, Sec. 62.105.)

Source Law

Sec. 62.105. AUTHORITY OF LOCAL GOVERNMENT. This subchapter does not restrict the authority of a local government to regulate the possession of a dangerous wild animal if the regulation does not conflict with this subchapter.

SUBCHAPTER B. PROHIBITED ACTS

Revised Law

Sec. 5203.0201. CONTROLLED KILLING OR ATTEMPTED INJURY OF DANGEROUS WILD ANIMAL PROHIBITED. A person may not:

(1) kill or attempt to injure a dangerous wild animal that is:

(A) in captivity in this state; or

(B) released from captivity in this state for the purpose of being killed; or

(2) conduct, promote, assist, or advertise an activity prohibited by Subdivision (1). (Parks & Wild. Code, Sec. 62.102.)

Source Law

Sec. 62.102. CONTROLLED KILLING OF OR ATTEMPTING TO INJURE DANGEROUS WILD ANIMAL PROHIBITED. No person may:

(1) kill or attempt to injure a dangerous wild animal that is:

(A) in captivity in this state; or

(B) released from captivity in this state for the purpose of being killed; or

(2) conduct, promote, assist, or advertise

an activity prohibited by Subdivision (1).

Revised Law

Sec. 5203.0202. CERTAIN COMMERCIAL ACTIVITY RELATING TO CONTROLLED KILLING PROHIBITED. A person may not:

(1) sell or offer for sale, or transport or consign for transportation in this state, including interstate commerce in this state, a dangerous wild animal that is to be used for a controlled killing prohibited by Section 5203.0201(1); or

(2) sell or offer for sale a part of or a product made from a dangerous wild animal used in a controlled kill prohibited by Section 5203.0201(1). (Parks & Wild. Code, Sec. 62.103.)

Source Law

> Sec. 62.103. UNLAWFUL CONTROLLED KILLING; CERTAIN COMMERCIAL ACTIVITY PROHIBITED. No person may:
>
> (1) sell or offer for sale, or transport or consign for transportation in this state, including interstate commerce in this state, a dangerous wild animal that is to be used for controlled killing prohibited by Section 62.102(1); or
>
> (2) sell or offer for sale a part of or a product made from a dangerous wild animal that is used in a controlled kill prohibited by Section 62.102(1).

SUBCHAPTER Z. ENFORCEMENT

Revised Law

Sec. 5203.9901. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter.

(b) An offense under this section is a Class A Parks and Wildlife Code misdemeanor, except that the offense is a Parks and Wildlife Code felony if it is shown on the trial of the offense that the defendant has previously been convicted of an offense under this section. (Parks & Wild. Code, Sec. 62.107.)

Source Law

> Sec. 62.107. CRIMINAL PENALTY. A person who violates this subchapter commits an offense that is a Class A Parks and Wildlife Code misdemeanor, unless it is shown at the trial of the defendant for a violation of this subchapter that the defendant has been convicted one or more times before the trial date of a violation of this subchapter, in which case the offense is a Parks and Wildlife Code felony.

Revisor's Note

Section 62.107, Parks and Wildlife Code, provides

that an offense under that section is a Parks and Wildlife Code felony if it is shown at the trial that the defendant has been convicted "one or more times" of a violation of the subchapter. The revised law omits the quoted language for the reason stated in the revisor's note to Section 5103.0301.

Revised Law

Sec. 5203.9902. SEIZURE OF LIVE DANGEROUS WILD ANIMAL OR CARCASS, HIDE, PART, OR PRODUCT. (a) A peace officer may seize a live dangerous wild animal or a carcass, hide, or part of or a product made from a dangerous wild animal possessed by a person if the officer has probable cause to believe that the animal was killed, wounded, or injured in, or the carcass, hide, part, or product was obtained as a result of, a controlled kill prohibited by Section 5203.0201(1).

(b) The commission shall adopt rules for the final disposition of a live animal, carcass, hide, part, or product seized under this section.

(c) The department, a game warden, or a department employee authorized to act under this section is immune from criminal or civil liability and from prosecution or civil suit for a seizure conducted under this section or a rule adopted under this section. (Parks & Wild. Code, Sec. 62.104.)

Source Law

> Sec. 62.104. SEIZURE OF DANGEROUS WILD ANIMAL OR CARCASS, HIDE, PART OR PRODUCT. (a) A peace officer may seize a live dangerous wild animal or a carcass, hide, or part of or a product made from a dangerous wild animal if the officer has probable cause to believe that the live animal, carcass, hide, part, or product possessed by a person was killed, wounded, or injured in, or obtained as a result of, a controlled kill prohibited by Section 62.102(1).
>
> (b) The commission shall adopt rules for the final disposition of a carcass, hide, part, product, or live animal seized under this section.
>
> (c) The department, a game warden, or other department employee authorized to act under this section is immune from criminal or civil liability and from prosecution or civil suit for a seizure conducted under this section or rules adopted under this section.

CHAPTER 5204. ALLIGATORS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5204.0101. DEFINITIONS. In this chapter:

(1) "Alligator" means a live or dead American alligator (Alligator mississippiensis).

(2) "Possess" means the act of having in possession or control, keeping, detaining, restraining, or holding as owner or as agent, bailee, or custodian for another.

(3) "Take" means the act of hooking, netting, snaring, trapping, pursuing, shooting, killing, capturing, or collecting by any means or device. The term includes an attempt to take by any method. (Parks & Wild. Code, Secs. 65.001(1), (3), (4).)

Source Law

Sec. 65.001. DEFINITIONS. In this chapter:

(1) "Alligator" means a living or dead American alligator (Alligator mississippiensis).

(3) "Possess" means the act of having in possession or control, keeping, detaining, restraining, or holding as owner or as agent, bailee, or custodian for another.

(4) "Take" means the act of hooking, netting, snaring, trapping, pursuing, shooting, killing, capturing, or collecting by any means or device and includes the attempt to take by the use of any method.

Revisor's Note

Sections 65.001(2), (5), and (6), Parks and Wildlife Code, define the terms "alligator hunter," "resident," and "nonresident," respectively, for purposes of Chapter 65 of that code. The revised law omits the definitions as unnecessary because the terms are not used elsewhere in Chapter 65. The omitted law reads:

(2) "Alligator hunter" means a person who takes an alligator, an alligator egg, or any part of an alligator.

(5) "Resident" means an individual who has resided continuously in this state during the six months preceding the individual's application for any license or permit issued under this chapter.

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

Revised Law

Sec. 5204.0102. APPLICABILITY OF CHAPTER. This chapter governs the taking, possession, and sale of an alligator to the exclusion of any other regulatory or licensing law, except for:

(1) the regulation of alligator populations on the United States list of endangered and threatened wildlife provided by 50 C.F.R. Section 17.11(h);

(2) a special permit issued under Chapter 5159, other than a permit issued under Subchapter M;

(3) the revocation or suspension of a license or permit under Subchapter D, Chapter 2056; or

(4) a contract for the removal of a reptile entered into under Subchapter E, Chapter 5452. (Parks & Wild. Code, Sec. 65.002.)

Source Law

Sec. 65.002. APPLICATION. Except for regulation of those populations listed on the United States List of Endangered Wildlife (50 C.F.R. Part 17), special permits issued under Chapter 43 of this code, revocation or suspension of licenses or permits under Subchapter F, Chapter 12, of this code, or contracts for the removal of reptiles entered into under Section 81.404 of this code, this chapter governs the taking, possession, and sale of alligators to the exclusion of other regulatory and licensing laws.

Revisor's Note

Section 65.002, Parks and Wildlife Code, refers to populations listed on the "United States List of Endangered Wildlife (50 C.F.R. Part 17)." A list of endangered and threatened wildlife is provided by 50 C.F.R. Section 17.11(h). The revised law substitutes "United States list of endangered and threatened wildlife provided by 50 C.F.R. Section 17.11(h)" for the quoted language because, in context, it is clear that the list provided by 50 C.F.R. Section 17.11(h) is the referenced list.

SUBCHAPTER B. ALLIGATORS

Revised Law

Sec. 5204.0201. COMMISSION REGULATIONS. (a) The commission by proclamation may regulate the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of alligators, alligator eggs, or any part of an alligator that the commission considers necessary to manage alligators.

(b) Commission regulations under this chapter may provide for:

(1) permit application forms, fees, and procedures;

(2) hearing procedures;

(3) periods when it is lawful to take, possess, sell, or purchase alligators, alligator eggs, or any part of an alligator;

(4) limits, size requirements, and means and methods for the lawful taking or possession of alligators, alligator eggs, or any part of an alligator;

(5) places where a taking or possession described by Subdivision (4) is lawful; and

(6) control of nuisance alligators. (Parks & Wild. Code, Sec. 65.003.)

Source Law

Sec. 65.003. REGULATIONS. (a) The commission may regulate by proclamation the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of alligators, alligator eggs, or any part of an alligator that the commission considers necessary to manage this species.

(b) The regulations of the commission under this chapter may provide for:

(1) permit application forms, fees, and procedures;

(2) hearing procedures;

(3) the periods of time when it is lawful to take, possess, sell, or purchase alligators, alligator hides, alligator eggs, or any part of an alligator;

(4) limits, size, means, methods, and places in which it is lawful to take or possess alligators, alligator hides, alligator eggs, or any part of an alligator; and

(5) control of nuisance alligators.

Revisor's Note

Sections 65.003(b)(3) and (4), Parks and Wildlife Code, refer to "alligators, alligator hides, alligator eggs, or any part of an alligator." Throughout this chapter, the revised law omits "alligator hides" from the quoted and similar language as unnecessary because "alligator hides" is included in the meaning of "any part of an alligator."

Revised Law

Sec. 5204.0202. PROHIBITED ACTS; PERMIT REQUIRED; EXCEPTION. (a) A person may not take, sell, purchase, or possess an alligator, an alligator egg, or any part of an alligator in this state except as authorized by commission regulation.

(b) A person may not for any purpose possess or purchase an alligator, an alligator egg, or any part of an alligator taken in this state unless:

(1) the person holds a permit issued by the department for that purpose; or

(2) a commission regulation otherwise allows the possession or purchase without a permit. (Parks & Wild. Code, Secs. 65.005, 65.006.)

Source Law

Sec. 65.005. POSSESSION. No person may take, sell, purchase, or possess an alligator, an alligator egg, or any part of an alligator in this state except as permitted by the regulations of the commission.

Sec. 65.006. PERMIT REQUIRED. No person for any purpose may possess, purchase, or possess after purchase an alligator, an alligator hide, an alligator egg, or any part of an alligator taken in this state unless:

(1) the person has acquired and possesses a permit issued by the department for that purpose; or

(2) a regulation of the commission otherwise allows the possession or purchase without a permit.

Revisor's Note

(1) Section 65.006, Parks and Wildlife Code, provides that a person may not "possess, purchase, or possess after purchase" an alligator, alligator hide,

alligator egg, or any part of an alligator. The revised law omits "possess after purchase" as unnecessary because "possess" includes possession after purchase.

(2) Section 65.006, Parks and Wildlife Code, provides that a person may not engage in certain activities unless the person "has acquired and possesses" a permit authorizing the activity. The revised law substitutes "holds" for the quoted language because, in this context, the phrases are synonymous and "holds" is more commonly used.

Revised Law

Sec. 5204.0203. SCIENTIFIC STUDIES AND INVESTIGATIONS. The department shall conduct scientific studies and investigations of alligators as necessary to:

(1) develop information on populations, distributions, habitat needs, limiting factors, and any other biological or ecological data; or

(2) determine appropriate management for public safety. (Parks & Wild. Code, Sec. 65.004.)

Source Law

Sec. 65.004. SCIENTIFIC STUDIES. The department shall conduct scientific studies and investigations of alligators as necessary to develop information on populations, distributions, habitat needs, limiting factors, and any other biological or ecological data or to determine appropriate management for public safety.

SUBCHAPTER Z. ENFORCEMENT

Revised Law

Sec. 5204.9901. CRIMINAL PENALTY. (a) A person commits an offense if the person violates:

(1) this chapter; or

(2) a commission regulation adopted under this chapter.

(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 has previously been convicted one time of an offense under Subsection (a)(1); or

(2) a Class A Parks and Wildlife Code misdemeanor if it is shown on the trial of the offense that the defendant has previously been convicted two or more times of an offense under Subsection (a)(1). (Parks & Wild. Code, Sec. 65.008.)

Source Law

> Sec. 65.008. PENALTIES. (a) A person commits an offense if the person violates this chapter or a regulation of the commission issued under this chapter.
>
> (b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor.
>
> (c) If it is shown at the trial of the defendant that he has been once before convicted of a violation of this chapter, the offense is a Class B Parks and Wildlife Code misdemeanor.
>
> (d) If it is shown at the trial of the defendant that he has been convicted of a violation of this chapter two or more previous times, the offense is a Class A Parks and Wildlife Code misdemeanor.

Revisor's Note

> Section 65.008(a), Parks and Wildlife Code, refers to a regulation of the Parks and Wildlife Commission "issued" under Chapter 65 of that code. The revised law substitutes "adopted" for "issued" for the reasons stated in the revisor's note to Section 5202.0403.

Revised Law

Sec. 5204.9902. SEIZURE AND DISPOSAL OF ALLIGATOR, EGG, OR PART. (a) A peace officer may seize an alligator, an alligator egg, or any part of an alligator if the officer has probable cause to believe the alligator, egg, or part was taken, possessed, sold, or purchased in violation of this chapter or a commission regulation adopted under this chapter.

(b) The department may sell an alligator, alligator egg, or alligator part seized under this section to the highest of three bidders. The department shall deposit the proceeds of the sale in

the appropriate department suspense fund.

(c) The department shall:

(1) transfer the proceeds of a sale under Subsection (b) from the suspense fund to the credit of the game, fish, and water safety account if the person from whom the item was seized:

(A) is found guilty;

(B) pleads guilty or nolo contendere;

(C) is placed on deferred adjudication community supervision; or

(D) fails to appear in accordance with a notice described by Section 2952.0301 or another law requiring that, as a condition of release, the person subsequently appear before a court to answer for the offense; or

(2) pay the proceeds of the sale under Subsection (b) to the person from whom the item was seized if:

(A) the person is acquitted by the trial court;

(B) the charges against the person are dismissed; or

(C) the limitations period for the prosecution of the offense has expired.

(d) A peace officer acting under the authority of this chapter or a commission regulation is immune from liability and suit for the seizure of an alligator, alligator egg, or any part of an alligator.

(e) To the extent practicable, Subtitle A, Title 6, Health and Safety Code, applies to an animal or animal part sold under this section that is intended for sale and use as human food. (Parks & Wild. Code, Sec. 65.009.)

Source Law

> Sec. 65.009. SEIZURE AND DISPOSAL OF ALLIGATORS. (a) A game warden or any other peace officer may seize an alligator, alligator hide, alligator egg, or any part of an alligator if he has probable cause to believe it was taken, possessed, sold, or purchased in violation of this chapter or of a regulation of the commission. An alligator, alligator hide, alligator egg, or alligator part seized under this section may be sold by the department to the

highest of three bidders, and the proceeds of the sale shall be deposited in the appropriate department suspense fund.

(b) If a person from whom an item described by Subsection (a) was seized is found guilty, pleads guilty or nolo contendere, is placed on deferred adjudication, or fails to appear in accordance with a notice described by Section 12.106 or another law requiring that, as a condition of release, the defendant subsequently appear before a court to answer for the offense, the department shall transfer the proceeds of the sale from the suspense fund to the credit of the game, fish, and water safety account. If the person is acquitted by the trial court, the charges against the person are dismissed, or the statute of limitations period for the prosecution of the offense has expired, the department shall pay the proceeds of the sale to the person from whom the items were seized.

(d) A game warden or peace officer acting under the authority of this chapter or of a regulation of the commission is immune from liability and from suit for the seizure of alligators, alligator hides, alligator eggs, or any part of an alligator.

(e) To the extent practicable, Subtitle A, Title 6, Health and Safety Code, applies to an animal or animal part sold under this section that is intended for sale and use as human food.

Revisor's Note

(1) Sections 65.009(a) and (d), Parks and Wildlife Code, refer to a "game warden or any other peace officer" and a "game warden or peace officer," respectively. The revised law omits the references to "game warden" for the reason stated in the revisor's note to Section 5103.0407.

(2) Section 65.009(a), Parks and Wildlife Code, refers to a violation of "a regulation of the commission." For clarity, the revised law adds "adopted under this chapter" after "a commission regulation" because it is clear from the context that the reference to a commission regulation means a regulation adopted under Chapter 65, Parks and Wildlife Code, revised as this chapter.

(3) Section 65.009(b), Parks and Wildlife Code, refers to a person being placed on "deferred adjudication." The revised law substitutes "deferred adjudication community supervision" for "deferred adjudication" for the reasons stated in Revisor's Note

(2) to Section 5159.0501.

Revisor's Note
(End of Chapter)

Section 65.0071, Parks and Wildlife Code, provides the term of validity for a license issued under Chapter 65 of that code. The revised law omits that provision as unnecessary because the requirement to hold an alligator hunter's license under Section 65.007 was repealed by Chapter 992, Acts of the 79th Legislature, Regular Session, 2005, and there are no other licenses issued under Chapter 65, revised as this chapter. The omitted law reads:

> Sec. 65.0071. EXPIRATION OF LICENSES. A license issued under 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. 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.

CHAPTER 5205. FUR-BEARING ANIMALS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5205.0101. DEFINITIONS. In this chapter:

(1) "Carcass" means, with respect to a fur-bearing animal, the body of a dead fur-bearing animal, with or without the hide attached.

(2) "Depredation" means the loss of or damage to agricultural crops, livestock, poultry, wildlife, or personal property.

(3) "Fur-bearing animal" means a wild beaver, otter, mink, ring-tailed cat, badger, skunk, raccoon, muskrat, opossum, fox, or nutria.

(4) "Fur-bearing animal propagator" means a person who

takes or possesses a live fur-bearing animal and holds the animal for the purpose of propagation or sale.

(5) "Pelt" means, with respect to a fur-bearing animal, the animal's untanned, green, or dried hide or skin, regardless of whether the hide or skin is attached to the animal's carcass.

(6) "Place of business" means, with respect to a fur-bearing animal, a place where the animal or the animal's pelt is sold, received, transported, possessed, or purchased. The term includes a vehicle used by a trapper, retail fur buyer, wholesale fur dealer, or fur-bearing animal propagator.

(7) "Retail fur buyer" means a person who purchases a fur-bearing animal of this state or the animal's pelt only from a trapper.

(8) "Sale" includes barter and other transfers of ownership for consideration.

(9) "Take" means the act of snaring, trapping, shooting, killing, or capturing by any means. The term includes an attempt to take.

(10) "Trapper" means a person who takes a fur-bearing animal or the animal's pelt.

(11) "Wholesale fur dealer" means a person who purchases for the person or for another person a fur-bearing animal of this state or the animal's pelt from a trapper, a retail fur buyer, a fur-bearing animal propagator, or another wholesale fur dealer. (Parks & Wild. Code, Secs. 71.001(1), (2), (3), (4), (7), (8), (9), (10), (11), (12), (13).)

Source Law

Sec. 71.001. DEFINITIONS. In this subtitle:

(1) "Fur-bearing animal" means wild beaver, otter, mink, ring-tailed cat, badger, skunk, raccoon, muskrat, opossum, fox, or nutria.

(2) "Trapper" means a person who takes a fur-bearing animal or the pelt of a fur-bearing animal.

(3) "Retail fur buyer" means a person who purchases a fur-bearing animal or the pelt of a fur-bearing animal of this state from trappers only.

(4) "Wholesale fur dealer" means a person

who purchases for himself or for another person a fur-bearing animal or the pelt of a fur-bearing animal of this state from a trapper, a retail fur buyer, a fur-bearing animal propagator, or another wholesale fur dealer.

(7) "Sale" includes barter and other transfers of ownership for consideration.

(8) "Take" means the act of snaring, trapping, shooting, killing, or capturing by any means and includes an attempt to take.

(9) "Carcass" means the body of a dead fur-bearing animal, with or without the hide attached.

(10) "Depredation" means the loss of or damage to agricultural crops, livestock, poultry, wildlife, or personal property.

(11) "Pelt" means the untanned, green or dried hide or skin of a fur-bearing animal, whether or not the hide or skin is attached to the carcass.

(12) "Place of business" means a place where fur-bearing animals or their pelts are sold, received, transported, possessed, or purchased, and includes a vehicle used by a trapper, retail fur buyer, wholesale fur dealer, or fur-bearing animal propagator.

(13) "Fur-bearing animal propagator" means a person who takes or possesses a living fur-bearing animal and holds it for the purpose of propagation or sale.

Revised Law

Sec. 5205.0102. APPLICABILITY OF CHAPTER. This chapter applies to fur-bearing animals except those populations on the statewide extinction list filed under Section 5052.0203. (Parks & Wild. Code, Sec. 71.0011.)

Source Law

Sec. 71.0011. APPLICATION. This chapter applies to fur-bearing animals in each county except those populations on the state's list of endangered fish and wildlife.

Revisor's Note

(1) Section 71.0011, Parks and Wildlife Code, refers to "the state's list of endangered fish and wildlife." For clarity and the convenience of the reader, the revised law substitutes "the statewide extinction list filed under Section 5052.0203" for the quoted language because it is clear from the context that the state's list of endangered fish and wildlife referenced in Section 71.0011 is the list of fish or wildlife threatened with statewide extinction filed by the executive director of the Parks and Wildlife

Department under Section 68.003, Parks and Wildlife Code, revised as Section 5052.0203.

(2) Section 71.0011, Parks and Wildlife Code, provides that the chapter applies to fur-bearing animals "in each county" except those populations on the state's list of endangered fish and wildlife. The revised law omits the quoted language as unnecessary because the chapter's provisions apply to the entire state and the language does not add to the clear meaning of the law.

Revised Law

Sec. 5205.0103. 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 for a license issued under 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. 71.001(5), (6).)

Source Law

Sec. 71.001. DEFINITIONS. In this subtitle:

. . .

(5) "Resident" means an individual who has resided continuously in this state for more than six months immediately before applying for a license issued under this chapter.

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

SUBCHAPTER B. REGULATION OF FUR-BEARING ANIMALS GENERALLY

Revised Law

Sec. 5205.0201. COMMISSION PROCLAMATIONS. (a) The commission by proclamation may regulate the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of fur-bearing animals and the pelts and carcasses of fur-bearing animals as the commission considers necessary to manage fur-bearing animals or to protect human health or property.

(b) A commission proclamation issued under this chapter may also provide for:

(1) license application forms, fees, procedures, and reports;

(2) hearing procedures;

(3) the periods when it is lawful to take, possess, sell, purchase, or transport fur-bearing animals or the pelts or carcasses of fur-bearing animals;

(4) catch and possession limits for fur-bearing animals and the pelts of fur-bearing animals; and

(5) the means, methods, and manner by which and places where it is lawful to take or possess fur-bearing animals or the pelts or carcasses of fur-bearing animals. (Parks & Wild. Code, Sec. 71.002.)

Source Law

> Sec. 71.002. PROCLAMATIONS. (a) The commission by proclamation may regulate the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of fur-bearing animals, pelts, and carcasses as the commission considers necessary to manage fur-bearing animals or to protect human health or property.
>
> (b) A proclamation of the commission under this chapter may also provide for:
>
> (1) permit application forms, fees, procedures, and reports;
>
> (2) hearing procedures;
>
> (3) the periods of time when it is lawful to take, possess, sell, purchase, or transport fur-bearing animals, pelts, and carcasses;
>
> (4) catch and possession limits for fur-bearing animals and pelts; and
>
> (5) the means, methods, and manner that are, and places in which it is, lawful to take or possess fur-bearing animals, pelts, or carcasses.

Revisor's Note

Section 71.002(b)(1), Parks and Wildlife Code, refers to "permit" application forms, fees, procedures, and reports. For clarity and consistency in terminology used in this chapter, the revised law substitutes "license" for "permit" because Chapter 71 of that code, revised as this chapter, authorizes only the issuance of licenses and not permits.

Revised Law

Sec. 5205.0202. TAKING, SALE, PURCHASE, OR POSSESSION GENERALLY PROHIBITED. Except as provided by commission proclamation or as otherwise authorized by this chapter, a person may not take, sell, purchase, or possess a fur-bearing animal or the pelt or carcass of a fur-bearing animal in this state. (Parks & Wild. Code, Sec. 71.004(a) (part).)

Source Law

> Sec. 71.004. PROHIBITED ACTS. (a) No person may take, sell, purchase, or possess a fur-bearing animal, pelt, or carcass in this state, except as provided by proclamation of the commission. . . .

Revisor's Note

Section 71.004(a), Parks and Wildlife Code, prohibits the taking, sale, purchasing, or possession of a fur-bearing animal or the pelt or carcass of a fur-bearing animal. Another provision of Section 71.004(a), revised in pertinent part as Section 5205.0203(a), provides an exception to this prohibition if the fur-bearing animal is causing depredation. Section 71.005, Parks and Wildlife Code, revised in multiple subchapters of this chapter, provides additional exceptions to this prohibition if the person holds an appropriate license. For clarity and the convenience of the reader, the revised law adds a general reference to the existence of those exceptions.

Revised Law

Sec. 5205.0203. AUTHORITY TO TAKE FUR-BEARING ANIMAL CAUSING DEPREDATION; POSSESSION OF ANIMAL TAKEN PROHIBITED. (a) Notwithstanding any other provision of this chapter, a landowner or the landowner's agent may take a fur-bearing animal causing depredation on the landowner's land.

(b) Except as authorized by commission proclamation, a person may not possess a fur-bearing animal taken because of

depredation. (Parks & Wild. Code, Sec. 71.004(a) (part).)

Source Law

> (a) . . . This chapter does not prohibit a landowner or his agent from taking a fur-bearing animal causing depredation on that person's land. No person may possess a fur-bearing animal taken for depredation purposes except as authorized by proclamation of the commission.

Revisor's Note

Section 71.004(a), Parks and Wildlife Code, provides that Chapter 71 of that code does not prohibit a landowner or the landowner's agent from taking a fur-bearing animal causing depredation on the landowner's land. For the convenience of the reader, the revised law adds "[n]otwithstanding any other provision of this chapter" because it is clear from the context that Section 71.004(a) is meant to authorize conduct that is otherwise prohibited by Chapter 71.

Revised Law

Sec. 5205.0204. AUTHORITY TO TAKE OR POSSESS UNDER HUNTING LICENSE. Notwithstanding any other provision of this chapter, a person who holds a hunting license may take and possess a fur-bearing animal if:

(1) the fur-bearing animal or part of that animal is not taken for the purpose of sale, barter, or exchange; and

(2) the number of fur-bearing animals taken does not exceed the daily bag limit or possession limit set by commission regulation. (Parks & Wild. Code, Sec. 71.005(d).)

Source Law

> (d) A person who possesses a hunting license may take and possess a fur-bearing animal if:
>
> (1) neither the fur-bearing animal nor any part of that animal is taken for the purpose of sale, barter, or exchange; and
>
> (2) the number of fur-bearing animals taken does not exceed the daily bag limit or possession limit set by commission regulation.

Revisor's Note

Section 71.005(d), Parks and Wildlife Code, provides that a person who possesses a hunting license

may take and possess a fur-bearing animal under certain circumstances. For the convenience of the reader, the revised law adds "[n]otwithstanding any other provision of this chapter" to indicate to the reader that the provision is an exception to the license requirements of this chapter.

Revised Law

Sec. 5205.0205. SCIENTIFIC STUDIES AND INVESTIGATIONS. The department shall conduct scientific studies and investigations of fur-bearing animals as necessary to:

(1) develop information on populations, distribution, habitat needs, and limiting factors;

(2) acquire other biological or ecological data; and

(3) determine appropriate management policies for public safety. (Parks & Wild. Code, Sec. 71.003.)

Source Law

> Sec. 71.003. SCIENTIFIC STUDIES AND INVESTIGATIONS. The department shall conduct scientific studies and investigations of fur-bearing animals as necessary to develop information on populations, distribution, habitat needs, and limiting factors, to acquire any other biological or ecological data, and to determine appropriate management policies for public safety.

SUBCHAPTER C. TRAPPER'S LICENSE

Revised Law

Sec. 5205.0301. TRAPPER'S LICENSE REQUIRED. Except as provided by Subchapter B, a person may not take a fur-bearing animal or the pelt of a fur-bearing animal in this state unless the person holds a trapper's license. (Parks & Wild. Code, Sec. 71.005(a).)

Source Law

> Sec. 71.005. LICENSES REQUIRED. (a) Except as provided by this section and Section 71.004(a), no person may take a fur-bearing animal or a pelt in this state unless the person has acquired and possesses a trapper's license.

Revisor's Note

(1) Section 71.005(a), Parks and Wildlife Code, prohibits the taking of a fur-bearing animal or the

pelt of a fur-bearing animal without a trapper's license except as provided by Sections 71.004(a) and 71.005 of that code. The revised law substitutes "Subchapter B" for the references to Sections 71.004(a) and 71.005 because the pertinent parts of the referenced sections providing exceptions to the prohibition are revised in Subchapter B of this chapter. Although Subchapter B also includes the revision of provisions not derived from Section 71.004(a) or 71.005, it is appropriate to refer to Subchapter B in its entirety because the additional provisions do not pertain to exceptions to the trapper's license requirement.

(2) Section 71.005(a), Parks and Wildlife Code, provides that a person may not engage in certain activities unless the person "has acquired and possesses" a license. Throughout this chapter, the revised law substitutes "holds" for the quoted language for the reasons stated in Revisor's Note (2) to Section 5204.0202.

Revised Law

Sec. 5205.0302. LICENSE FEES. (a) The fee for a resident trapper's license is $10.75 or a greater amount set by the commission.

(b) The fee for a nonresident trapper's license is $200.75 or a greater amount set by the commission. (Parks & Wild. Code, Secs. 71.009(1), (2).)

Source Law

Sec. 71.009. LICENSE FEES. The fee for a license authorized by this chapter is in the following amount or an amount set by the commission, whichever amount is more:

(1) $10.75 for a resident trapper's license;

(2) $200.75 for a nonresident trapper's license; . . . .

Revised Law

Sec. 5205.0303. CARRYING LICENSE REQUIRED. A trapper shall carry the trapper's license on the trapper's person while taking or possessing a fur-bearing animal or the pelt or carcass of a fur-bearing animal. (Parks & Wild. Code, Sec. 71.011(a).)

Source Law

> Sec. 71.011. POSSESSION AND DISPLAY OF LICENSES. (a) A trapper shall carry the trapper's license on his person while taking or possessing a fur-bearing animal, pelt, or carcass.

SUBCHAPTER D. WHOLESALE FUR DEALER'S LICENSE

Revised Law

Sec. 5205.0401. WHOLESALE FUR DEALER'S LICENSE REQUIRED. Except as provided by Section 5205.0501 or commission regulation, a person may not purchase, possess after purchase, or transport for commercial purposes a pelt or carcass of a fur-bearing animal taken in this state unless the person holds a wholesale fur dealer's license. (Parks & Wild. Code, Sec. 71.005(b) (part).)

Source Law

> (b) Except as provided by commission regulation, no person may purchase, possess after purchase, or transport for commercial purposes a pelt or carcass taken in this state unless the person has acquired and possesses a . . . wholesale fur dealer's license.

Revised Law

Sec. 5205.0402. LICENSE FEES. (a) The fee for a resident wholesale fur dealer's license is $100.75 or a greater amount set by the commission.

(b) The fee for a nonresident wholesale fur dealer's license is $400.75 or a greater amount set by the commission. (Parks & Wild. Code, Secs. 71.009(5), (6).)

Source Law

> Sec. 71.009. LICENSE FEES. The fee for a license authorized by this chapter is in the following amount or an amount set by the commission, whichever amount is more:
>
> . . .
>
> (5) $100.75 for a resident wholesale fur dealer's license;
>
> (6) $400.75 for a nonresident wholesale fur dealer's license; and . . . .

Revised Law

Sec. 5205.0403. LICENSE DISPLAY. A wholesale fur dealer shall display the required license at the person's place of business or while conducting business at a place other than the person's place of business. (Parks & Wild. Code, Sec. 71.011(b) (part).)

Source Law

> (b) A wholesale fur dealer, . . . shall display the required license at his place of business or while conducting business at a place other than his place of business.

Revised Law

Sec. 5205.0404. REPORTS REQUIRED. A wholesale fur dealer's license holder shall submit reports to the department as required by commission proclamation. (Parks & Wild. Code, Sec. 71.014 (part).)

Source Law

> Sec. 71.014. REPORTS. The holder of a wholesale fur dealer's, . . . license shall submit reports to the department as required by proclamation of the commission.

Revised Law

Sec. 5205.0405. RESTRICTION ON PURCHASE BY WHOLESALE FUR DEALER. A wholesale fur dealer may purchase in this state a pelt or carcass of a fur-bearing animal only from:

(1) the holder of a trapper's license, retail fur buyer's license, or wholesale fur dealer's license; or

(2) a fur-bearing animal propagator. (Parks & Wild. Code, Sec. 71.007.)

Source Law

> Sec. 71.007. PURCHASES BY WHOLESALE FUR DEALER. No wholesale fur dealer may purchase in this state a pelt or carcass except from a licensed trapper, a licensed retail fur buyer, a fur-bearing animal propagator, or another licensed wholesale fur dealer.

SUBCHAPTER E. RETAIL FUR BUYER'S LICENSE

Revised Law

Sec. 5205.0501. RETAIL FUR BUYER'S LICENSE REQUIRED. Except as provided by Section 5205.0401 or commission regulation, a

person may not purchase, possess after purchase, or transport for commercial purposes a pelt or carcass of a fur-bearing animal taken in this state unless the person holds a retail fur buyer's license. (Parks & Wild. Code, Sec. 71.005(b) (part).)

Source Law

> (b) Except as provided by commission regulation, no person may purchase, possess after purchase, or transport for commercial purposes a pelt or carcass taken in this state unless the person has acquired and possesses a retail fur buyer's or . . . license.

Revised Law

Sec. 5205.0502. LICENSE FEES. (a) The fee for a resident retail fur buyer's license is $50.75 or a greater amount set by the commission.

(b) The fee for a nonresident retail fur buyer's license is $200.75 or a greater amount set by the commission. (Parks & Wild. Code, Secs. 71.009(3), (4).)

Source Law

> Sec. 71.009. LICENSE FEES. The fee for a license authorized by this chapter is in the following amount or an amount set by the commission, whichever amount is more:
>
> . . .
>
> (3) $50.75 for a resident retail fur buyer's license;
>
> (4) $200.75 for a nonresident retail fur buyer's license; . . . .

Revised Law

Sec. 5205.0503. LICENSE DISPLAY. A retail fur buyer shall display the required license at the person's place of business or while conducting business at a place other than the person's place of business. (Parks & Wild. Code, Sec. 71.011(b) (part).)

Source Law

> (b) . . . a retail fur buyer, or . . . shall display the required license at his place of business or while conducting business at a place other than his place of business.

Revised Law

Sec. 5205.0504. REPORTS REQUIRED. A retail fur buyer's license holder shall submit reports to the department as required by commission proclamation. (Parks & Wild. Code, Sec. 71.014

(part).)

Source Law

Sec. 71.014. REPORTS. The holder of a . . . retail fur buyer's, or . . . license shall submit reports to the department as required by proclamation of the commission.

Revised Law

Sec. 5205.0505. RESTRICTION ON PURCHASE BY RETAIL FUR BUYER. A retail fur buyer may purchase in this state a pelt or carcass of a fur-bearing animal only from a trapper's license holder. (Parks & Wild. Code, Sec. 71.006.)

Source Law

Sec. 71.006. PURCHASES BY RETAIL FUR BUYER. No retail fur buyer may purchase in this state a pelt or carcass except from a licensed trapper.

SUBCHAPTER F. FUR-BEARING ANIMAL PROPAGATION LICENSE

Revised Law

Sec. 5205.0601. FUR-BEARING ANIMAL PROPAGATION LICENSE REQUIRED. Except as otherwise authorized by this code, a person may not capture or possess a live fur-bearing animal for any purpose unless the person holds a fur-bearing animal propagation license. (Parks & Wild. Code, Sec. 71.005(c).)

Source Law

(c) No person may capture or possess a live fur-bearing animal for any purpose, except as otherwise authorized by this code, unless he has acquired and possesses a fur-bearing animal propagation license.

Revised Law

Sec. 5205.0602. LICENSE FEE. The fee for a fur-bearing animal propagation license is $50.75 or a greater amount set by the commission. (Parks & Wild. Code, Sec. 71.009(7).)

Source Law

Sec. 71.009. LICENSE FEES. The fee for a license authorized by this chapter is in the following amount or an amount set by the commission, whichever amount is more:

. . .

(7) $50.75 for a fur-bearing animal propagation permit.

Revisor's Note

Section 71.009(7), Parks and Wildlife Code, refers to a "fur-bearing animal propagation permit." For consistency in terminology used in this chapter, the revised law substitutes "license" for "permit" because Section 71.005(c), Parks and Wildlife Code, requires a person to hold a "fur-bearing animal propagation license" to capture or possess a live fur-bearing animal for any purpose and "license" is the term more commonly used in Chapter 71 of that code.

Revised Law

Sec. 5205.0603. LICENSE DISPLAY. A fur-bearing animal propagator shall display the required license at the person's place of business or while conducting business at a place other than the person's place of business. (Parks & Wild. Code, Sec. 71.011(b) (part).)

Source Law

(b) . . . a fur-bearing animal propagator shall display the required license at his place of business or while conducting business at a place other than his place of business.

Revised Law

Sec. 5205.0604. REPORTS REQUIRED. A fur-bearing animal propagation license holder shall submit reports to the department as required by commission proclamation. (Parks & Wild. Code, Sec. 71.014 (part).)

Source Law

Sec. 71.014. REPORTS. The holder of a . . . fur-bearing animal propagation license shall submit reports to the department as required by proclamation of the commission.

SUBCHAPTER G. GENERAL LICENSE PROVISIONS

Revised Law

Sec. 5205.0701. FORM AND ISSUANCE OF LICENSE. (a) The department shall prescribe the form of a license authorized by this chapter.

(b) The department or an authorized department agent shall

issue a license authorized by this chapter to an applicant on the payment of the required license fee. (Parks & Wild. Code, Sec. 71.008.)

Source Law

> Sec. 71.008. ISSUANCE OF LICENSES. The licenses authorized by this chapter shall be of a form prescribed and issued by the department, or an authorized agent of the department, to applicants on the payment of the license fees.

Revised Law

Sec. 5205.0702. LICENSE TERM. (a) A license issued under this chapter is valid only during the term for which the license is issued.

(b) For the purposes of Subsection (a), a license term:

(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. 71.010 (part).)

Source Law

> Sec. 71.010. LICENSE PERIOD. The license period for licenses issued under this chapter is September 1 or another date set by the commission through August 31 of the next year or another date set by the commission, and a license is current and valid only for the license period for which it is issued. . . .

Revisor's Note

Section 71.010, Parks and Wildlife Code, refers to the period when a license "is current and valid." The revised law omits "current" because, in this context, "current" is included within the meaning of "valid."

Revised Law

Sec. 5205.0703. 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 lower than the amount prescribed by this chapter for that license. (Parks & Wild. Code, Sec. 71.010 (part).)

Source Law

> Sec. 71.010. . . . 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. 5205.0704. LICENSE DISPLAY ON REQUEST. A person shall, on request by the department or an authorized department agent, display a required license while taking, possessing, selling, offering for sale, or buying a fur-bearing animal or the pelt or carcass of a fur-bearing animal. (Parks & Wild. Code, Sec. 71.011(c) (part).)

Source Law

> (c) The failure to display a valid license on request by the department or an authorized agent of the department while taking, possessing, selling, offering for sale, or buying a fur-bearing animal, pelt, or carcass is a violation of this chapter. . . .

Revisor's Note

Section 71.011(c), Parks and Wildlife Code, provides that "[t]he failure to display a valid license" on request by certain persons while engaging in certain conduct relating to fur-bearing animals is a violation of Chapter 71 of that code. For clarity, the revised law restates the provision as an affirmative duty to display the license. Additionally, the revised law omits the reference to failure to comply with that duty as being a violation of the chapter as redundant because any violation of this provision is an offense under Section 71.015, Parks and Wildlife Code, revised as Section 5205.9901, and the general offense under that section applies on its own terms. The revised law also omits "valid" for

the reasons stated in Revisor's Note (1) to Section 5151.0302.

SUBCHAPTER Z. ENFORCEMENT

Revised Law

Sec. 5205.9901. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter or a proclamation issued under this chapter.

(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, during the preceding three-year period, the defendant has previously been convicted one time of an offense under this section; or

(2) a Class A Parks and Wildlife Code misdemeanor if it is shown on the trial of the offense that, during the preceding five-year period, the defendant has previously been convicted two or more times of an offense under this section. (Parks & Wild. Code, Sec. 71.015.)

Source Law

> Sec. 71.015. PENALTIES. (a) Except as provided in another subsection of this section, a person who violates any provision of this chapter or proclamation under this chapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.
>
> (b) If it is shown at the trial of the defendant that he has been convicted once within the preceding 36 months of a violation of this chapter or a proclamation under this chapter, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.
>
> (c) If it is shown at the trial of the defendant that he has been convicted two or more times within the preceding 60 months of a violation of this chapter or a proclamation under this chapter, on conviction he shall be punished for a Class A Parks and Wildlife Code misdemeanor.

Revised Law

Sec. 5205.9902. MANDATORY DISMISSAL OF CERTAIN OFFENSES INVOLVING FAILURE TO DISPLAY LICENSE. A court shall dismiss a charge against a person for a violation of Section 5205.0303, 5205.0403, 5205.0503, 5205.0603, or 5205.0704 if, on or before the trial of the offense, the person produces for the court or the

prosecuting attorney the proper license that was issued to the person and valid at the time of the offense. (Parks & Wild. Code, Sec. 71.011(c) (part).)

Source Law

> (c) . . . If on or before the trial of a person charged with a violation of this section, the person produces for the court or the prosecuting attorney the proper license that was issued to the person and valid at the time of the offense, the court shall dismiss that charge.

Revised Law

Sec. 5205.9903. INSPECTIONS. A peace officer may inspect at any time without a warrant:

(1) the place of business of a wholesale fur dealer, retail fur buyer, or fur-bearing animal propagator; and

(2) a vehicle being used by a wholesale fur dealer, retail fur buyer, or fur-bearing animal propagator for the collection or transportation of fur-bearing animals or the pelts or carcasses of fur-bearing animals. (Parks & Wild. Code, Sec. 71.012.)

Source Law

> Sec. 71.012. INSPECTIONS. The place of business of any fur-bearing animal propagator, wholesale fur dealer, or retail fur buyer and any vehicle being used by a fur-bearing animal propagator, wholesale fur dealer, or retail fur buyer for the collection or transportation of fur-bearing animals, carcasses, or pelts are subject to inspection without a warrant by a game warden or any other peace officer at any time.

Revisor's Note

Section 71.012, Parks and Wildlife Code, refers to a "game warden or any other peace officer." The revised law omits "game warden" for the reason stated in the revisor's note to Section 5103.0407.

CHAPTER 5206. PROTOCOL FOR DESTRUCTION OF CERTAIN DEER

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5206.0101. APPLICABILITY OF CHAPTER. This chapter applies only to:

(1) deer held at a facility covered by a deer breeder's permit issued under Subchapter B, Chapter 5159;

(2) deer on acreage covered by a white-tailed deer management permit issued under Subchapter C, Chapter 5159; and

(3) deer on acreage covered by a mule deer management permit issued under Subchapter D, Chapter 5159. (Parks & Wild. Code, Sec. 43.951.)

Source Law

Sec. 43.951. APPLICABILITY. This subchapter applies only to the disposition of the following deer:

(1) deer held at a facility covered by a permit issued under Subchapter L;

(2) deer on acreage covered by a permit issued under Subchapter R; and

(3) deer on acreage covered by a permit issued under Subchapter R-1.

Revisor's Note

Sections 43.952(2) and (3), Parks and Wildlife Code, define "permit" and "permit holder" for purposes of Subchapter X, Chapter 43, of that code to mean a permit issued under Subchapter L, R, or R-1 of that chapter or a person to whom such a permit is issued, respectively. Section 43.951, Parks and Wildlife Code, revised as this section, however, provides that Subchapter X applies only to certain deer covered by a permit issued under Subchapter L, R, or R-1. For clarity, the revised law omits the definition of "permit" and substitutes "deer to which this chapter applies" for references to deer covered by "the permit." The revised law also omits the definition of "permit holder" because it does not add to the clear meaning of the law. The omitted law reads:

(2) "Permit" means a permit issued under Subchapter L, R, or R-1.

(3) "Permit holder" means a person to whom a permit is issued under Subchapter L, R, or R-1.

SUBCHAPTER B. DESTRUCTION OF DEER

Revised Law

Sec. 5206.0201. AUTHORITY TO DESTROY DEER. (a) To control or prevent the spread of disease, deer to which this chapter applies may be destroyed only if the department determines that the deer pose a threat to the health of other deer or species, including humans.

(b) The department shall carry out an order to destroy deer after notice has been provided to the applicable permit holder under Section 5206.0203. (Parks & Wild. Code, Secs. 43.953(b), (c).)

Source Law

> (b) To control or prevent the spread of disease, deer to which this subchapter applies may be destroyed only if the department determines that the deer pose a threat to the health of other deer or other species, including humans.
>
> (c) The department shall carry out an order to destroy deer after notice has been provided to the permit holder under Section 43.954.

Revised Law

Sec. 5206.0202. EPIDEMIOLOGICAL ASSESSMENT. (a) Before deer may be destroyed under this chapter, the department must consider the results of an assessment conducted under Subsection (b), if any.

(b) An agent of the Texas Animal Health Commission may conduct an epidemiological assessment if:

(1) the assessment can be conducted in a timely manner; and

(2) funding is available to conduct the assessment. (Parks & Wild. Code, Sec. 43.953(a).)

Source Law

> Sec. 43.953. DESTRUCTION OF DEER. (a) Before any deer may be destroyed under this subchapter:
>
> (1) an agent of the animal health commission may conduct an epidemiological assessment:
>
> (A) if the assessment can be conducted in a timely manner; and
>
> (B) contingent on the availability of funding; and
>
> (2) the department must consider the results of an assessment, if conducted, under Subdivision (1).

Revisor's Note

Section 43.952(1), Parks and Wildlife Code, defines "animal health commission" for purposes of Subchapter X, Chapter 43, of that code to mean the Texas Animal Health Commission. For clarity, the revised law omits that definition and, throughout this subchapter, substitutes "Texas Animal Health Commission" for "animal health commission." The omitted law reads:

> Sec. 43.952. DEFINITIONS. In this subchapter:
>
> (1) "Animal health commission" means the Texas Animal Health Commission.

Revised Law

Sec. 5206.0203. NOTICE OF DEER DESTRUCTION. (a) The department may not destroy deer to which this chapter applies unless the department has provided written notice of an order to destroy the deer to the applicable permit holder.

(b) The department shall provide the notice by certified mail to the permit holder's last known address.

(c) The notice must contain:

(1) the date of the destruction of the deer, which may not be sooner than the 10th day after the date of the notice;

(2) an explanation of any access restrictions imposed on the facility or acreage covered by the permit during the destruction of the deer; and

(3) an explanation of the reasons for the destruction of the deer, including the results of any epidemiological assessment conducted under Section 5206.0202 applicable to the deer that are the subject of the notice.

(d) A permit holder may waive the notice requirements of this section. (Parks & Wild. Code, Sec. 43.954.)

Source Law

> Sec. 43.954. NOTICE OF DEER DESTRUCTION. (a) The department must provide written notice of an order to destroy deer to a permit holder before the department may destroy any of the deer covered by the permit holder's permit.

(b) A notice provided under this section must be sent by certified mail to the last known address of the permit holder and must contain:

(1) the date of destruction, which may not be sooner than the 10th day after the date of the notice;

(2) an explanation of any access restrictions imposed on the facility or acreage covered by the permit during the destruction of the deer; and

(3) an explanation of the reasons for the destruction, including the results of any epidemiological assessment conducted under Section 43.953(a) applicable to the deer that are the subject of the notice.

(c) The permit holder may waive the notice requirements of this section.

Revised Law

Sec. 5206.0204. COSTS OF ASSESSMENT AND DESTRUCTION OF DEER. (a) The applicable permit holder shall:

(1) pay to the Texas Animal Health Commission all costs associated with an epidemiological assessment conducted under Section 5206.0202; and

(2) except as provided by Subsection (b), pay to the department all costs associated with the destruction of deer under this chapter.

(b) Except as provided by Subsection (c), the department shall waive the costs associated with the destruction under this chapter of breeder deer at a facility covered by a deer breeder's permit issued under Subchapter B, Chapter 5159, where a breeder deer has tested positive for chronic wasting disease in a test performed by a testing laboratory accredited by the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

(c) The department may not waive costs under Subsection (b) if the department determines that the permit holder or an agent of the permit holder, in violation of a commission regulation or Chapter 5159, other than Subchapter M of that chapter, caused:

(1) the introduction of chronic wasting disease into the facility; or

(2) a delay in the detection of chronic wasting disease at the facility. (Parks & Wild. Code, Sec. 43.955.)

Source Law

Sec. 43.955. COST OF ASSESSMENT AND DESTRUCTION OF DEER. (a) The applicable permit holder shall pay all costs associated with:

(1) an epidemiological assessment conducted under this subchapter to the animal health commission; and

(2) except as provided by Subsection (b), the destruction of deer under this subchapter to the department.

(b) Except as provided by Subsection (c), the department shall waive the costs associated with the destruction under this subchapter of breeder deer at a facility covered by a permit issued under Subchapter L where a breeder deer has tested positive for chronic wasting disease in a test performed by a testing laboratory accredited by the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

(c) The department may not waive costs under Subsection (b) if the department determines that the permit holder or an agent of the permit holder, in violation of this chapter or a regulation of the commission, caused:

(1) the introduction of chronic wasting disease into the facility; or

(2) a delay in the detection of chronic wasting disease at the facility.

Revisor's Note

Section 43.955(c), Parks and Wildlife Code, refers to a determination by the Parks and Wildlife Department that a permit holder or agent of the permit holder, in violation of Chapter 43 of that code or a Parks and Wildlife Commission regulation, caused the introduction of chronic wasting disease into a facility covered by a permit issued under Subchapter L, Chapter 43, of that code, or caused a delay in the detection of chronic wasting disease at the facility. Chapter 43 is revised in pertinent part as Chapter 5159 of this code, and the revised law is drafted accordingly.