

- SUBJECT:** Hunting license stamp for nonlethal capture of reptiles and amphibians
- COMMITTEE:** Culture, Recreation, and Tourism — committee substitute recommended
- VOTE:** 6 ayes — Guillen, Deshotel, Dukes, T. King, Price, T. Smith
0 nays
3 absent — Elkins, Kuempel, Larson
- WITNESSES:** For — Ralph Pierce Aldis; Tim Cole, Austin Herpetological Society; Roy Engeldorf, Outback Oasis Motel; Joe Forks; Lisa Willaman

Against — (*Registered, but did not testify:* Monica Hardy, Texas Humane Legislation Network; Shannon Lucas, Game Warden Peace Officer Association; Nicole Paquette, The Human Society of the United States)

On — (*Registered, but did not testify:* Scott Vaca, Matt Wagner, Texas Parks and Wildlife)
- BACKGROUND:** Secs. 42.002 and 42.005 of the Parks and Wildlife Code require Texas residents and non-residents, respectively, to obtain an appropriate hunting license to hunt any animal or bird in this state. Ch. 43 governs special licenses and permits.

Sec. 62.0031 prohibits the hunting of any animal or bird in Texas from a public road or right-of-way, while sec. 62.004 prohibits the hunting of any animal or bird at night.

A publicly, privately, or cooperatively owned utility that provides services such as electricity, water, or gas service, qualifies as a utility under sec. 203.091 of the Transportation Code. Sec. 541.302 defines a road's shoulder as a portion of the highway adjacent to the road, ordinarily used for parking, distinguishable from the roadway by certain markers, and not intended for normal car traffic.
- DIGEST:** CSHB 1788 would amend Parks and Wildlife Code, adding subch. W to create rules for a reptile and amphibian stamp that would authorize persons with the stamp to capture indigenous reptiles or amphibians in a

nonlethal manner on the shoulder of a road or on unpaved areas of public rights-of-way.

The Parks and Wildlife Commission would be required to create the form and design of the stamps, as well as the method by which stamps would be issued under the law. The stamp would not be valid unless signed on the face by the person to whom it was issued. The commission would have the authority to create other ways to identify people who bought the stamp from automated outlets.

Under CSHB 1788, the yearly period for a valid stamp would extend from September 1 of one year until August 31 of the following year, unless the commission set different start and end dates. The stamp would be valid only for the yearly period for which it was issued, without regard to the date when the stamp was acquired. For the first set of stamps issued by TPWD, the validity period would run from the date of first availability to the end of the first annual period set by the commission, and would cost an amount equal to the yearly fee plus a prorated amount for the partial year starting at the date of first availability.

The stamp would cost \$10, and TPWD also could issue non-valid editions of the stamp for a fee set by the commission. Revenue generated from the sale of the stamps would be credited to the game, fish, and water safety account.

Under the bill, the possession of a stamp alone would not be adequate authorization to capture indigenous amphibians or reptiles either without a hunting license under other sections in the code, or during a time or through a method not otherwise authorized.

CSHB 1788 would allow a person performing oil and gas exploration or an employee of a utility performing employment duties to capture a reptile or amphibian by nonlethal means and release it later without having a hunting license or stamp.

A violation of the stamp requirement under sec. 43.901 would be classified as a Class C Parks and Wildlife Code misdemeanor. If a non-exempt person were caught in an area described by the bill capturing by nonlethal means a species covered by the bill and failed or refused to show a stamp to a game warden or peace officer, it would be presumed that the person had violated the bill's requirements.

The bill also would require reptile and amphibian collectors to wear reflective clothing that had at least 144 squares inches of reflective material on the front and back.

CSHB 1788 would require the commission to adopt rules to implement changes made by the bill by March 1, 2012.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 1788 would be an effective way to generate revenue for the state through permit fees and tourism dollars. The fee collected from the issuance of the \$10 stamp and required hunting license would generate an estimated \$105,698 annually that would be deposited into the game, fish, and water safety account. Many herpetologists agree that anyone seeking to enjoy the natural resources of this state should have to pay a fee for that benefit. Over 50 percent of respondents to informal online polls supporting this bill were persons located outside of Texas. The interest in reptile collection would result in an increase of visitors to Texas during the summer months, thereby giving the tourism industry a boost. The entire state, especially rural communities that have suffered most from the prohibition of this hobby, would benefit from this bill during a difficult economic time.

Safety concerns would not be an issue with this bill. CSHB 1788 specifically would limit collecting to road shoulders and unpaved public rights-of-way, preventing participants from capturing animals from the roads and highways. Because collecting normally occurs at night in Texas' rural communities, safety would be ensured by activity during times of less traffic and areas with fewer people. This hobby would be practiced with non-dangerous collection equipment, such as a flashlight, as opposed to a gun. CSHB 1788 also would require that collectors wear reflective clothing while looking for animals. Additionally, because the bill would require anyone interested in collecting reptiles or amphibians to purchase a hunting license as well as a stamp, it would enforce the requirement that both resident and non-resident collectors were licensed. The bill's repeal of the current roadside hunting ban would affect only a very small population, and therefore would not restore safety concerns the ban worked to alleviate in the first place.

CSHB 1788 would not create an opportunity for abuse by persons performing oil and gas exploration or utility workers. Under the Texas Administrative Code, persons without a nongame permit are limited in the number of animals they can possess at any time. Therefore, although these workers would not be required to possess a hunting license and stamp under the bill, they would not be allowed to exploit the exemption provided by CSHB 1788.

OPPONENTS
SAY:

Although CSHB 1788 would appear to be a way to generate revenue for the state, it also would create major safety and biological issues for Texas. Reptile and amphibian collectors often search for animals while driving at low speeds on Texas roads, an activity called “cruising.” Regardless of whether the collection occurred at night, this type of driving would create foreseeable accidents from collisions involving “cruisers” and drivers traveling safely along Texas’s roads and highways.

The Texas ecosystem also would suffer. Because the bill would not limit the number of reptiles or amphibians collected by enthusiasts, Texas could experience mass depletion of wildlife. The great interest from persons outside of Texas largely stems from the fact that this type of collection has been prohibited in some neighboring states. The current bans that protect both the people and wildlife in Texas already are working well.

CSHB 1788 would increase the burden of enforcement on TPWD. Searching for reptiles and amphibians at night requires the use of hunting spotlights from the roads. The public contacts the department when these lights are spotted, either to complain or to alert wardens of illegal hunting activity. If CSHB 1788 were enacted, TPWD would experience an increase in calls and overall workload as wardens are required to respond to every call. Additionally, the bill would make it very difficult for wardens to enforce illegal hunting activity for other animals, as a suspect could easily claim they were collecting reptiles or amphibians. The bill would only increase the workload of law enforcement personnel in the state.

The exemption for utility and oil and gas workers under the bill could serve as a convenient loophole to the bill’s requirement of both a hunting license and permit to collect reptiles and amphibians. CSHB 1788 would set no limitations for the time one of these workers could possess animals, nor would it limit the number of animals they could possess. This exemption would provide an efficient vehicle for the illegal trade of

animal skins, which would contribute to activities such as the multi-million dollar black market that operates in neighboring Mexico. Many countries, including the United States, signed the CITES treaty, which bans the sale of reptile skins and furs from endangered species. The bill would make enforcement of the ban nearly impossible and place Texas in the position of enabling the illegal activities of an untaxed, but profitable, industry.

NOTES:

The fiscal note, based on estimates for hunting licenses provided by TPWD, estimates \$105, 698 would be generated annually for the General Revenue-Dedicated Game, Fish, and Water Safety Account No. 9.