

BILL ANALYSIS

Senate Research Center

H.B. 2542
By: Cook (Brown)
Natural Resources
5-8-97
Engrossed

DIGEST

During the legislative interim, the State Recreational Resources Committee received a charge to "Review statutes in the Parks and Wildlife Code and recommend changes to those that require burdensome regulations." This study was a complementary effort to that being conducted by the Parks and Wildlife Commission wherein all the agency's regulations were "sunsetting" and required review and reenactment. Under this administrative process the agency was able to reduce the volume of regulations by approximately 30 percent. The State Recreational Resources Committee published the findings of its study in its Interim Report to the 75th Legislature. This bill reflects the findings of the committee during the interim study and its recommendations for amendments and repeal of elements of the Parks and Wildlife Code.

PURPOSE

As proposed, H.B. 2542 provides new regulations for the Parks and Wildlife Code and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Parks and Wildlife Commission in SECTIONS 9, 51, 64, and 105 (Sections 11.027(e), 47.004(c), 49.011(c), and 67.004(a), Parks and Wildlife Code) and the Texas Department of Parks and Wildlife in SECTION 58 (Section 49.014, Parks and Wildlife Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.012, Parks and Wildlife Code, as follows:

Sec. 1.012. New heading: PUBLIC FRESH WATER. Prohibits any public freshwater lake, river, creek, or bayou in this state contained in any survey of private land from being sold, but is required to remain open to the public. Provides that the Texas Parks and Wildlife Department (TPWD) is authorized to protect the fish in public water under rules it is authorized to prescribe. Deletes existing text regarding stocking water with fish.

SECTION 2. Amends Section 1.101(1), Parks and Wildlife Code, to redefine "hunt."

SECTION 3. Amends Chapter 11A, Parks and Wildlife Code, by adding Section 11.003, as follows:

Sec. 11.003. GEOGRAPHIC REGIONS. Sets forth nine geographic regions into which the state is divided and from which members of the Texas Parks and Wildlife Commission (commission) are appointed.

SECTION 4. Amends Section 11.012, Parks and Wildlife Code, by adding Subsection (d), to require the governor to appoint one commission member from each geographic region designated under Section 11.003 of this code.

SECTION 5. Amends Section 11.0125, Parks and Wildlife Code, by amending Subsection (a) and adding Subsection (d), to provide that is a ground for removal from the commission if a member no

longer resides in the geographic region from which the member is appointed. Provides that a commission member's failure to reside in the geographic region from which the member is appointed is not grounds for removal if the member no longer resides in the geographic region because of a change in the region's boundary.

SECTION 6. Sets forth regulations regarding appointments by the governor to the commission.

SECTION 7. Amends Chapter 11B, Parks and Wildlife Code, by adding Section 11.0181, as follows:

Sec. 11.0181. EMPLOYEES AS EDUCATORS AND OUTREACH PROPONENTS. Requires employees of TPWD through education and outreach to expand the wise use and conservation of fish and wildlife resources, and increase the participation in outdoor recreation. Authorizes TPWD to use money from any of TPWD's special accounts to pay for education and outreach activities performed by TPWD employees or to provide grants for education and outreach activities to be performed by other entities.

SECTION 8. Amends Chapter 11B, Parks and Wildlife Code, by adding Section 11.0261, as follows:

Sec. 11.0261. PROHIBITION AGAINST ACCEPTANCE OF GIFTS, GRATUITIES, AND OTHER THINGS OF VALUE. Sets forth regulations regarding the acceptance of gifts, gratuities, and other things of value by commission members or an employee of TPWD.

SECTION 9. Amends Section 11.027, Parks and Wildlife Code, by adding Subsection (e), to authorize the Texas Parks and Wildlife Commission (commission), by rule, to establish and provide for the collection of a fee for entering, reserving, or using a facility or property owned or managed by TPWD.

SECTION 10. Amends Chapter 11B, Parks and Wildlife Code, by adding Section 11.0272, as follows:

Sec. 11.0272. PUBLIC FISHING AND SPECIAL EVENTS DRAWING; FEES. Authorizes TPWD to conduct public drawings to select applicants for public fishing or other special events privileges. Authorizes TPWD to charge each person who participates in the drawing a nonrefundable participation fee in addition to any fee for issuing a permit or fishing license. Sets forth regulations for setting fees.

SECTION 11. Amends Section 11.033, Parks and Wildlife Code, to delete a reference to the construction and maintenance of artificial reefs. Makes conforming changes.

SECTION 12. Amends Section 12.010, Parks and Wildlife Code, to authorize TPWD to contract with a person not employed by TPWD for the control, rather than eradication, of noxious vegetation in the water of the state. Makes a nonsubstantive change.

SECTION 13. Amends Section 12.013, Parks and Wildlife Code, to authorize an employee of TPWD acting within the scope of the employee's authority to take, transport, release, and manage any of the wildlife and fish in this state for education purposes. Deletes a provision regarding prosecution of an employee of TPWD.

SECTION 14. Amends Sections 12.114(b) and (c), Parks and Wildlife Code, to redefine "driver's license" and "personal identification certificate." Makes nonsubstantive changes.

SECTION 15. Amends Section 12.404, Parks and Wildlife Code, to require an individual adjudged guilty of a Class A Parks and Wildlife Code misdemeanor to be punished by a fine of not less than \$500 nor more than \$4,000, rather than \$2,000.

SECTION 16. Amends Section 12.405, Parks and Wildlife Code, to require an individual adjudged guilty of a Class B Parks and Wildlife Code misdemeanor to be punished by a fine of not less than

\$200 nor more than \$2,000, rather than \$1,000.

SECTION 17. Amends Section 12.407, Parks and Wildlife Code, to require an individual adjudged guilty of a Parks and Wildlife Code felony to be punished by confinement in the institutional division of the Texas Department of Criminal Justice for any term of not more than 10 years or less than two years. Make a nonsubstantive change.

SECTION 18. Amends Section 12.409, Parks and Wildlife Code, to provide that each fish, bird, animal, reptile, or amphibian or part thereof, exported in violation of any provision of this code or a proclamation or regulation adopted under this code constitutes a separate offense.

SECTION 19. Amends Section 12.505, Parks and Wildlife Code, to provide that a person commits a Class A Parks and Wildlife Code misdemeanor if the person engages in an activity requiring a permit or license during the time for which such license or permit has been suspended or revoked.

SECTION 20. Amends Section 13.001(b), Parks and Wildlife Code, to require the commission to establish a classification system for state parks and wildlife management areas that categorizes wildlife management areas, parks, or a portion of parks as wildlife, rather than game, management areas.

SECTION 21. Amends Section 13.016(b), Parks and Wildlife Code, to provide that convicts working in connection with lands under the control or jurisdiction of TPWD remain under the control of the Texas Department of Criminal Justice.

SECTION 22. Amends Section 13.019, Parks and Wildlife Code, as follows:

Sec. 13.019. New heading: FACILITY RESERVATION FEE. Authorizes TPWD to permit the advance reservation of a facility. Deletes existing text regarding the reservation fee.

SECTION 23. Amends the heading to Chapter 23, Parks and Wildlife Code, as follows:

CHAPTER 23. New heading: NATIONAL PARKS, NATIONAL SEASHORES, AND OTHER
FEDERAL LANDS

SECTION 24. Amends Chapter 23D, Parks and Wildlife Code, as follows:

SUBCHAPTER D. New heading: FEDERAL LANDS

Sec. 23.041. AGREEMENTS FOR WILDLIFE MANAGEMENT. Authorizes TPWD to agree with the proper agency of the United States for the protection and management of wildlife resources and for restocking desirable species of wildlife on federal lands in the state, rather than in portions of the Davy Crockett National Forest that can be designated by a natural boundary. Deletes text regarding a natural boundary. Deletes a provision regarding the length of the agreement and the number of acres covered by the agreement.

Sec. 23.042. New heading: WILDLIFE RESOURCES DEFINED. Defines "wildlife resources."

Sec. 23.043. HUNTING AND FISHING REGULATIONS. Authorizes the commission, under Chapter 61 or Chapter 81E, to provide for open seasons for hunting and fishing on federal lands for which TPWD has entered into a wildlife management agreement under this subchapter. Deletes existing text regarding regulations for the Davy Crockett National Forest.

Sec. 23.044. PENALTY. Makes a conforming change.

SECTION 25. Amends Sections 31.003(1) and (14), Parks and Wildlife Code, to redefine "boat" and "personal watercraft."

SECTION 26. Amends Section 31.004, Parks and Wildlife Code, to delete a reference to navigated

and moving watercraft.

SECTION 27. Amends Section 31.021(b), Parks and Wildlife Code, to prohibit any person from operating or giving permission for the operation of any vessel, or docking, mooring, or storing a vessel owned by the person, on the water of this state unless certain conditions are met.

SECTION 28. Amends Section 31.129(a), Parks and Wildlife Code, to provide that a person commits a Class C Parks and Wildlife Code misdemeanor if the person violates or fails to comply with a rule of the Texas Natural Resource Conservation Commission, rather than the Texas Department of Water Resources.

SECTION 29. Amends Section 41.003(b), Parks and Wildlife Code, to authorize a person who holds a nonresident sport fishing license or a nonresident hunting license issued by this state or a border state to be extended the same privileges as those extended a resident license holder under this subsection. Makes nonsubstantive changes.

SECTION 30. Amends Section 41.004, Parks and Wildlife Code, to provide that an agreement under Section 41.003 is not effective until the commission by proclamation has approved it. Deletes provisions regarding commission approval and effective date of an agreement.

SECTION 31. Amends Section 41.006(c), Parks and Wildlife Code, to provide that regulations adopted by the commission or issued by the executive director of TPWD take effect 20 days, rather than 30 days, after their adoption or issuance or as otherwise specified in the regulations.

SECTION 32. Amends Section 42.001, Parks and Wildlife Code, to redefine "carcass" and "final destination," and to define "final processing," "cold storage or processing facility," "wildlife resource document," and "quartering."

SECTION 33. Amends Section 42.018, Parks and Wildlife Code, by amending Subsections (a) and (c), and adding Subsections (d)-(g), to set forth regulations regarding the possession of the carcass or any part of the carcass of a deer. Makes nonsubstantive changes.

SECTION 34. Amends Section 42.0185, Parks and Wildlife Code, by amending Subsection (a) and adding Subsections (c)-(e), to set forth regulations regarding the possession of a wild turkey after the turkey is killed. Makes nonsubstantive changes.

SECTION 35. Amends Section 42.019, Parks and Wildlife Code, as follows:

Sec. 42.019. New heading: POSSESSION OF CERTAIN PARTS OF ANTELOPE. Sets forth regulations regarding the possession of the carcass or any part of the carcass of an antelope. Deletes existing text regarding the possession of a carcass of a wild deer.

SECTION 36. Amends Section 43.0721, Parks and Wildlife Code, by amending Subsection (a) and adding Subsection (c), to prohibit a person from releasing banded pen-reared birds under this subchapter unless the person holds a valid private bird hunting area license. Deletes a provision regarding compensation. Provides that a person is not required to hold a hunting lease license issued under Subchapter D to hunt banded pen-reared birds released under the authority of this subchapter.

SECTION 37. Amends Section 43.075(d), Parks and Wildlife Code, to require the band to remain on each bird killed until the bird is taken to one of various locations unless the name and identification number of the licensee has been stamped or printed on the box, wrapping, or package containing the carcass of a bird that has been processed and possessed, shipped, or transported without the band attached. Makes a nonsubstantive change.

SECTION 38. Amends Section 43.154(d), Parks and Wildlife Code, to provide that no state permit is required to authorize a person to kill certain birds if the person has obtained a permit authorizing that activity from the United States Department of the Interior or the United States Department of Agriculture. Deletes existing text prohibiting issuance of a permit unless a permit had been issued to the applicant by the Fish and Wildlife Service or for the taking of certain wildlife.

SECTION 39. Amends Section 43.201(a), Parks and Wildlife Code, to prohibit a person from hunting certain animals during open archery season except as provided by Subsection (c) or (d), and during which season only crossbows used by hunters with upper limb disabilities and recurved bows, and compound bows are authorized to be used unless the person has acquired an archery hunting stamp issued to the person by TPWD. Deletes a reference to hunting bear. Makes nonsubstantive changes.

SECTION 40. Amends Section 43.203, Parks and Wildlife Code, to make conforming and nonsubstantive changes.

SECTION 41. Amends Section 43.522(a), Parks and Wildlife Code, to delete a provision regarding a limit on the fee charged for a conservation permit.

SECTION 42. Amends Chapter 43P, Parks and Wildlife Code, by adding Section 43.555, Parks and Wildlife Code, as follows:

Sec. 43.555. PENALTIES. Provides that a person commits a Class C Parks and Wildlife Code misdemeanor if the person violates this subchapter or a commission rule issued under this subchapter.

SECTION 43. Amends Section 44.012, Parks and Wildlife Code, to prohibit a game animal held under the authority of a license issued under this subchapter from being sold, traded, transferred, or shipped to any person in any county during an open season in the county of destination for taking the game animal or during a period of 10 days before the open season. Deletes existing text regarding the sale or shipment of certain animals by a game breeder.

SECTION 44. Amends Section 45.001, Parks and Wildlife Code, to prohibit a person from possessing game birds in captivity for the purpose of propagation or sale without first acquiring the proper license. Deletes existing text regarding the propagation of game birds.

SECTION 45. Amends Section 45.003, Parks and Wildlife Code, to provide that a class 1 commercial game bird breeder's license entitles the holder to possess in captivity more than 1,000 game birds. Provides that a class 2 commercial game bird breeder's license entitles the holder to possess in captivity not more than 1,000 game birds during any calendar year. Deletes existing text regarding the propagation of game birds.

SECTION 46. Amends Section 45.006, Parks and Wildlife Code, to prohibit a person from offering for sale or purchasing the carcass or any part of a dead pen-raised bird unless the carcass or part is delivered to the purchaser and is accompanied by a document on which is printed or written the name and identification number, rather than serial number, of the game bird breeder. Makes conforming and nonsubstantive changes.

SECTION 47. Amends Section 45.0061, Parks and Wildlife Code, to require certain persons, on the request of a game warden, to furnish to the warden a receipt showing the name and street address of the person and the name and street address of the source from which any game bird in the possession of the person was derived. Requires the receipt to show the date of sale and the species and number of game birds acquired. Makes nonsubstantive changes.

SECTION 48. Amends Section 45.009, Parks and Wildlife Code, to delete a provision authorizing a person to purchase live pheasant from a commercial game bird breeder for any purpose. Authorizes any person owning or operating a business where food is sold for consumption to sell game birds for consumption on the premises of the business if the birds were lawfully obtained by the person who supplied the birds and the business obtained the birds in a lawful transaction.

SECTION 49. Amends Sections 47.001(3)-(5), (9), and (16), Parks and Wildlife Code, to redefine "wholesale fish dealer," "retail fish dealer," "bait dealer," "fishing guide," "place of business," and "aquatic product."

SECTION 50. Amends Section 47.003(d), Parks and Wildlife Code, to delete a provision

prohibiting a person from being issued a commercial finfish fisherman's license unless the person files with TPWD at the time the person applies for the license an affidavit stating that not less than 50 percent of the applicant's gainful employment is devoted to commercial fishing. Makes conforming changes.

SECTION 51. Amends Section 47.004, Parks and Wildlife Code, to authorize the commission to adopt rules governing the issuance and use of a fishing guide license.

SECTION 52. Amends Section 47.009(c), Parks and Wildlife Code, to provide that a resident who has an aquaculture license is not required to obtain or possess a wholesale fish dealer's license if the person's business activities with regard to the sale of fish involve fish raised on the person's fish farm only. Makes conforming changes.

SECTION 53. Amends Section 47.010, Parks and Wildlife Code, to provide that a resident who holds a fish farm vehicle license under Section 134.012, Agriculture Code, is not required to obtain a license for the vehicle under this section if the vehicle is used with regard to the sale or transportation of only aquatic products raised on a licensed Texas aquaculture facility belonging to the owner of the vehicle. Makes a conforming change.

SECTION 54. Amends Section 47.011(c), Parks and Wildlife Code, to make conforming changes.

SECTION 55. Amends Section 47.013(c), Parks and Wildlife Code, to make conforming changes.

SECTION 56. Amends Section 47.014, Parks and Wildlife Code, by amending Subsection (a) and adding Subsection (c), to provide that a person who has an aquaculture license for a Texas aquaculture facility under Section 134.011, Agriculture Code, is not required to obtain or possess a bait dealer's license if certain requirements are met. Makes nonsubstantive changes.

SECTION 57. Amends Section 47.018(a), Parks and Wildlife Code, to make nonsubstantive changes.

SECTION 58. Amends Section 47.0181, Parks and Wildlife Code, to make nonsubstantive changes.

SECTION 59. Amends Section 47.031(b), Parks and Wildlife Code, to authorize a license issued under the authority of Section 47.007, among others, to be transferred to another vessel or to a new owner of the same vessel. Makes nonsubstantive changes.

SECTION 60. Amends Section 49.001, Parks and Wildlife Code, by adding Subdivision (3), to define "falconry."

SECTION 61. Amends Section 49.002, Parks and Wildlife Code, to authorize a nonresident to temporarily possess in this state or transport through this state any raptor if the person is authorized by state and federal permits to possess the raptor in the person's state of residence or has been issued a permit under Chapter 43. Deletes existing text regarding protected species of wildlife. Makes nonsubstantive changes.

SECTION 62. Amends Section 49.003, Parks and Wildlife Code, as follows:

Sec. 49.003. New heading: RECIPROCITY. Requires a person in possession of a raptor under a license issued by another state who intends to establish residency in this state to apply to TPWD for a falconry permit within a certain time period. Requires a signed and notarized affidavit stating the person's intent to establish residency in this state to accompany the application. Deletes existing text regarding an apprentice falconer's permit.

SECTION 63. Amends Section 49.010, Parks and Wildlife Code, to authorize a resident possessing a falconry permit and a hunting license to hunt by means of falconry. Deletes a reference to certain animals. Makes nonsubstantive changes.

SECTION 64. Amends Section 49.011, Parks and Wildlife Code, as follows:

Sec. 49.011. New heading: TRANSFER OR SALE OF RAPTORS. Authorizes a holder of a falconer's permit to transfer a raptor to another holder of a falconer's permit or receive a raptor from another holder of a falconer's permit. Authorizes a holder of a falconer's permit who qualifies as prescribed by commission rule to purchase raptors from any legal source and may sell captive-bred raptors to any person permitted to purchase captive-bred raptors. Deletes existing text regarding the purchase of raptors from a person in another state. Makes nonsubstantive changes.

SECTION 65. Amends Section 49.014, Parks and Wildlife Code, to authorize TPWD to prescribe rules for the taking, capture, possession, propagation, transportation, export, and sale of raptors, time and area from which raptors may be captured, and species that may be captured, and prescribe fees for and issue any raptor propagation, or nonresident trapping permit. Makes a conforming change.

SECTION 66. Amends Section 61.003, Parks and Wildlife Code, to provide that this chapter applies to every county, place, and wildlife resource in the state, except as otherwise provided by this code. Deletes existing text providing that Title 7 prescribes the counties, places, and wildlife resources to which this chapter applies.

SECTION 67. Amends Section 61.005, Parks and Wildlife Code, to delete the definition of "hunt," and to redefine "wildlife resources," "depletion," and "waste."

SECTION 68. Amends Section 61.022, Parks and Wildlife Code, to prohibit a person from hunting or catching by any means or method or possessing a wildlife resource, rather than game animal or game bird, fish, marine animal, or other aquatic life, at any time and at any place covered by this chapter unless the owner of the land or water, or the owner's agent, consents.

SECTION 69. Amends Chapter 61B, Parks and Wildlife Code, by adding Section 61.023, as follows:

Sec. 61.023. APPLYING CONTRACEPTIVES TO WILDLIFE RESOURCES. Prohibits any person from intentionally applying contraceptives to any vertebrate wildlife resource unless the person first obtains written authorization from TPWD.

SECTION 70. Amends Section 61.051, Parks and Wildlife Code, as follows:

Sec. 61.051. New heading: DUTY TO INVESTIGATE AND STUDY CERTAIN WILDLIFE RESOURCES. Requires TPWD to conduct scientific studies and investigations of all species of game animals, game birds, and aquatic animal life to make certain determinations. Deletes a reference to hunting, trapping, fishing, disease, infestation, predation, agricultural pressure, and overpopulation.

SECTION 71. Amends Section 61.052, Parks and Wildlife Code, to make conforming and nonsubstantive changes.

SECTION 72. Amends Section 61.053, Parks and Wildlife Code, to make conforming changes.

SECTION 73. Amends Section 61.054, Parks and Wildlife Code, to make conforming changes.

SECTION 74. Amends Section 61.055(a), Parks and Wildlife Code, to require the commission, if the commission finds that there is a danger of depletion or waste, to amend or revoke its proclamations to prevent the depletion or waste and to provide to the people the most equitable and reasonable privilege to hunt game animals or game birds or catch aquatic animal life, rather than pursue, take, possess, and kill wildlife resources.

SECTION 75. Amends Chapter 61C, Parks and Wildlife Code, by adding Section 61.058, as follows:

Sec. 61.058. YOUTH HUNTING AND FISHING. Authorizes the commission to provide for special open seasons during which the taking and possession of game animals and game

birds are restricted to persons under 17 years old. Authorizes the commission to provide for special means and methods for the taking and possession of aquatic animal life by persons under 17 years old.

SECTION 76. Amends Section 61.101(a), Parks and Wildlife Code, to delete a provision requiring TPWD to hold public hearings in at least five locations the director or the director's designee considers necessary to ensure public participation.

SECTION 77. Amends Section 61.205(d), Parks and Wildlife Code, to authorize TPWD to authorize the sale, trade, auction, or donation of a bighorn sheep hunting permit if the proceeds of the sale, trade, auction, or donation are used to restore, protect, or manage bighorn sheep. Deletes existing text prohibiting a person from selling or trading a bighorn sheep hunting permit for anything of value.

SECTION 78. Amends Section 62.005, Parks and Wildlife Code, to prohibit a person from hunting a game animal or bird protected by this code with the aid of an artificial light that casts or reflects a beam of light onto or otherwise illuminates the game animal or bird, including the headlights of a motor vehicle. Deletes existing text regarding prima facie evidence that a person was violating this section.

SECTION 79. Amends Section 62.014(a)(2), Parks and Wildlife Code, to redefine "archery equipment."

SECTION 80. Amends Sections 62.014(b)-(d), Parks and Wildlife Code, to make conforming changes.

SECTION 81. Amends Section 62.021, Parks and Wildlife Code, to provide that this section does not prohibit the sale of certain items. Deletes a provision that Subsection (a) does not apply to deer hides. Deletes a provision requiring the commission to authorize and regulate the sale, purchase, and possession after purchase of deer antlers. Makes nonsubstantive changes.

SECTION 82. Amends Section 62.029, Parks and Wildlife Code, as follows:

Sec. 62.029. New heading: RECORDS OF GAME IN COLD STORAGE OR PROCESSING FACILITY. Defines "cold storage or processing facility." Deletes the definition of "public cold storage plant." Requires the owner, operator, or lessee of a cold storage or processing facility to maintain a book containing a record of certain information. Requires the owner, operator, or lessee to enter all information into the book as required by this section before placing in storage or processing any game animal or game bird. Requires the cold storage or processing facility record book to be kept at the facility and may be inspected by an authorized employee of TPWD during business hours or at any other reasonable time.

SECTION 83. Amends Section 62.030, Parks and Wildlife Code, as follows:

Sec. 62.030. New heading: POSSESSION OF GAME IN COLD STORAGE OR PROCESSING FACILITY. Authorizes a person to place and maintain, or possess in a cold storage or processing facility lawfully killed game birds and game animals not in excess of the number permitted to be possessed by law. Make nonsubstantive changes.

SECTION 84. Amends Section 62.031, Parks and Wildlife Code, as follows:

Sec. 62.031. New heading: INSPECTIONS OF FACILITIES. Makes conforming changes.

SECTION 85. Amends Section 62.082, Parks and Wildlife Code, as follows:

Sec. 62.082. New heading: TARGET RANGES AND MANAGED HUNTS. Authorizes the board of directors of the Lower Colorado River Authority to authorize lawful hunting on Lower Colorado River Authority lands, consistent with sound biological management

practices. Provides that Section 62.081 does not apply to an employee of the Lower Colorado River Authority, a person authorized to hunt under Subsection (c), or a peace officer as defined by Article 2.12, Code of Criminal Procedure. Makes conforming changes.

SECTION 86. Amends Chapter 63A, Parks and Wildlife Code, by adding Section 63.002, as follows:

Sec. 63.002. POSSESSION OF LIVE GAME ANIMALS. Prohibits a person from possessing a live game animal in this state for any purpose not authorized by this code.

SECTION 87. Amends Section 64.002, Parks and Wildlife Code, to delete a provision that except as provided by this section, Chapter 67, or Section 12.013, no person may take certain actions regarding a game bird. Deletes a reference to grackles, ravens, red winged blackbirds, cowbirds, and crows. Provides that a permit is not required to control certain birds 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.

SECTION 88. Amends Chapter 64A, Parks and Wildlife Code, by adding Section 64.007, as follows:

Sec. 64.007. POSSESSION OF LIVE GAME BIRDS. Prohibits a person from possessing a live game bird in this state except as authorized by this code.

SECTION 89. Amends Section 64.022, Parks and Wildlife Code, as follows:

Sec. 64.022. New heading: AUTHORITY OF COMMISSION. Requires the commission to provide the open season and means, methods, and devices for the taking and possessing of migratory game birds and may delegate that authority to the executive director.

SECTION 90. Amends Sections 64.024(b) and (c), Parks and Wildlife Code, to delete existing Subsection (b), regarding regulations issued by TPWD, and to make a conforming change.

SECTION 91. Amends Section 64.026, Parks and Wildlife Code, to prohibit a person from hunting or possessing a migratory game bird by any means or method, rather than device, except as provided by regulation issued under this code, rather than subchapter.

SECTION 92. Amends Section 65.001, Parks and Wildlife Code, to redefine "alligator," "alligator hunter," and "resident," and to delete the definition of "alligator buyer."

SECTION 93. Amends Section 65.003, Parks and Wildlife Code, to authorize the commission to regulate by proclamation certain actions regarding alligator eggs. Authorizes the regulations of the commission under this chapter to provide for the control of nuisance alligators. Makes conforming changes.

SECTION 94. Amends Section 65.005, Parks and Wildlife Code, to delete a reference to consumers who purchase goods made from alligators. Makes a nonsubstantive change.

SECTION 95. Amends Section 65.006, Parks and Wildlife Code, to prohibit a person from assisting another person who is attempting to take an alligator in this state unless the person has acquired and possesses an alligator hunter's license. Deletes a reference to open season. Prohibits a person for any purpose from taking certain actions in regards to an alligator egg unless certain criteria are met.

SECTION 96. Amends Section 65.007, Parks and Wildlife Code, to make conforming changes.

SECTION 97. Amends Section 66.002(a), Parks and Wildlife Code, to prohibit a person from taking, attempting to catch or take any aquatic animal life by any means or method, rather than by certain methods, from any privately owned waters, rather than lake, pool, or pond, without the consent of the landowner or landowner's agent.

SECTION 98. Amends Section 66.003(b), Parks and Wildlife Code, to provide that Subsection (a) of this section does not apply to the use of explosives necessary for construction purposes when the use is authorized in writing by TPWD, rather than the county judge of the county where the work is to be done.

SECTION 99. Amends Section 66.014(a), Parks and Wildlife Code, to redefine "motor vehicle," "trailer," and "semitrailer."

SECTION 100. Amends Section 66.015(d), Parks and Wildlife Code, to provide that Subsection (b) of this section does not apply to certain fish, except in waters designated by the commission where threatened or endangered fish are present.

SECTION 101. Amends Section 66.109(a), Parks and Wildlife Code, to authorize TPWD to require the owner of a public or private dam or other obstruction on a regularly flowing public freshwater stream to construct or repair fishways or fish ladders sufficient to allow fish in all seasons to descend the dam or other obstruction for the purpose of depositing spawn.

SECTION 102. Amends Section 66.2011, Parks and Wildlife Code, as follows:

Sec. 66.2011. New heading: RED DRUM AND SPECKLED SEA TROUT: PENALTIES. Deletes existing text regarding daily catch and retention limits. Makes conforming and nonsubstantive changes.

SECTION 103. Amends Sections 66.2012(d)-(f), Parks and Wildlife Code, to provide that a proclamation of the commission under this section prevails over any conflicting provision of Section 66.020, rather than Sections 66.201 and 66.2011, to the extent of the conflict and only during the period that the proclamation is in effect. Provides that a person who violates a proclamation issued under Subsection (a) is guilty of an offense and is punishable for the first and subsequent offenses by the penalties prescribed by Sections 66.2011, rather than 66.2011(d), and 66.218. Makes conforming and nonsubstantive changes.

SECTION 104. Amends Section 67.001, Parks and Wildlife Code, as follows:

Sec. 67.001. New heading: DEFINITION. Redefines "nongame." Deletes existing text regarding regulations by the commission establishing limits necessary to manage nongame species.

SECTION 105. Amends Section 67.004, Parks and Wildlife Code, to require the commission by regulation to establish any limits on certain actions regarding nongame fish or wildlife that TPWD considers necessary to manage the species. Deletes existing text regarding public hearings on proposed regulations.

SECTION 106. Amends Section 67.0041, Parks and Wildlife Code, as follows:

Sec. 67.0041. New heading: REGULATIONS AND PERMITS. Authorizes TPWD to issue permits for the propagation and importation of a nongame species of fish or wildlife if necessary to properly manage that species. Deletes a provision authorizing TPWD to charge a fee for a permit issued under this section only if it is for a commercial activity.

SECTION 107. Amends Sections 68.014 and 68.015, Parks and Wildlife Code, to make conforming changes.

SECTION 108. Amends Sections 71.005(b)-(d), Parks and Wildlife Code, to prohibit a person, except as provided by commission regulation, from purchasing, possessing after purchase, or transporting for commercial purposes a pelt or carcass taken in this state unless the person has acquired and possesses a retail fur buyer's or wholesale fur dealer's license. Prohibits a person from capturing or possessing a live fur-bearing animal for any purpose, except as otherwise authorized by this code, unless the person has acquired and possesses a fur-bearing animal propagation license. Deletes a provision authorizing a person who is engaged in a lawful hunting activity for any species

other than fur-bearing animals to take and possess a fur-bearing animal in certain circumstances. Makes nonsubstantive changes.

SECTION 109. Amends Section 76.1031(b), Parks and Wildlife Code, to prohibit all licenses issued under the authority of this chapter, rather than Chapter 76 of this code, from being transferred except as provided by this subsection. Authorizes a license issued under the authority of Section 76.101(c) to be transferred to another vessel or to a new owner of the same vessel.

SECTION 110. Amends Section 76.116, Parks and Wildlife Code, to provide that there is no open season for taking oysters from areas closed by the Texas Department of Health, rather than areas declared polluted. Deletes existing text regarding a violation. Makes conforming changes.

SECTION 111. Amends Section 77.020, Parks and Wildlife Code, to provide that a person commits a Class C Parks and Wildlife Code misdemeanor if the person violates a regulation adopted under this chapter. Makes conforming and nonsubstantive changes.

SECTION 112. Amends Section 77.0361, Parks and Wildlife Code, by amending Subsection (b) and adding Subsection (c), to provide that a license issued under the authority of Section 77.043 in the name of a business remains valid for the business location specified on the license if a change of ownership or business name occurs. Authorizes a license issued under the authority of Section 77.035 to be transferred to another vessel or to the new owner of the same vessel. Makes conforming and nonsubstantive changes.

SECTION 113. Amends Section 77.037, Parks and Wildlife Code, to authorize a commercial gulf shrimp boat license issued under this subchapter to be transferred on the application of the licensee from a boat that has been destroyed or lost to a boat acquired by the licensee as a replacement.

SECTION 114. Amends Section 77.044(b), Parks and Wildlife Code, to prohibit a bait-shrimp dealer's license from being issued to a place of business for which a wholesale fish dealer's license has been issued. Deletes a provision prohibiting a bait-shrimp dealer's license from being held by a person who also holds a shrimp house operator's license.

SECTION 115. Amends the heading to Chapter 81E, Parks and Wildlife Code, as follows:

SUBCHAPTER E. New heading: WILDLIFE MANAGEMENT AREAS AND PUBLIC
HUNTING LANDS

SECTION 116. Amends Section 81.402, Parks and Wildlife Code, to authorize the executive director, rather than TPWD, to prohibit hunting and fishing in wildlife management areas or public hunting lands to protect any species of wildlife or fish. Deletes a provision regarding open season. Makes conforming and nonsubstantive changes.

SECTION 117. Amends Section 81.403, Parks and Wildlife Code, by amending Subsection (a) and adding Subsection (e), to authorize TPWD to authorize and accept multiple applications for special hunting permits, programs, packages, or events. Makes conforming changes.

SECTION 118. Amends Section 47.02(c), Penal Code, to provide that it is a defense to prosecution under this section that the actor reasonably believed that the conduct consisted entirely of participation in a drawing for the opportunity to participate in a hunting, fishing, or other recreational event conducted by TPWD. Deletes a provision regarding a drawing for hunting privileges.

SECTION 119. Repealers: Sections 11.0161(b), 12.004(a), 12.007, 12.012, 12.014, 12.016, 12.022, 12.023, 12.111, 13.0011, 13.0012, and 13.111; Chapter 23E, Sections 41.001, 41.002, 41.007, 43.046, 43.048, 43.0485, 43.0761, 43.0765, 44.0135, 46.107, 47.036, 49.004, 49.0045, 49.0047, 49.005-49.009, 49.013, 61.004, 61.105, 61.203, 62.027, 62.028, 66.112, 66.302, 76.010, 76.011, 76.013, 76.014, 76.018, 76.034, 76.105, 76.108, 76.110, 76.111, 76.112(a), 76.113, 77.001(9), 77.005, 77.012, 77.013, 77.016-77.019, 77.038, 77.041, 77.042, 77.047, 77.063(a), 77.064-77.070; Chapter 77E; Sections 81.002 and 81.201-81.205; Chapter 82A; Chapter 114A; Chapter 130A; Chapter 131A; Chapter 134A; Chapter 136A; Chapter 143A; Chapter 192A; Chapter 202A; Chapter

216A; Chapters 223A and B; Section 223.022; Chapter 237A; Chapters 246A and D; Chapter 258A; Chapter 272A; Chapter 283A; Section 355.003; and Chapters 101-113, 115-129, 132, 133, 135, 137-142, 144-191, 193-201, 203-215, 217-222, 224-236, 238-245, 247-257, 259-271, 273-282, and 284-354.

SECTION 120. Effective date: September 1, 1997.

SECTION 121. Makes application of this Act prospective.

SECTION 122. Provides that a rule adopted by the Parks and Wildlife Commission before September 1, 1997, is not invalid because the rule conflicts with a provision of the Parks and Wildlife Code that was in effect at the time the rule was adopted and that is repealed by this Act. Prohibits a rule adopted before September 1, 1997, that conflicts with a provision in effect at the time the rule was adopted and repealed by this Act from taking effect before September 1, 1997.

SECTION 123. Emergency clause.