

BILL ANALYSIS

Senate Research Center
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H.B. 1818
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Certain game, animal parts, and animal products confiscated under the Parks and Wildlife Code are currently sold to the highest bidder, and the revenue from the sale is held in a suspense fund in the state treasury pending certain outcomes with respect to the prosecution of the person charged in connection with the confiscation. However, interested parties assert that under current law, proceeds held in the suspense fund cannot be touched until the suspect appears in court, and since some suspects never appear, the Texas Parks and Wildlife Department (TPWD) has money held in suspense dating back nearly 30 years. H.B. 1818 seeks to remedy this situation by, among other provisions, providing for the transfer or payment of money held by TPWD in a suspense account for cases in which the person charged in connection with the confiscation fails to appear in court, the charges against the person are dismissed, or the statute of limitations period for the prosecution of the offense has expired.

H.B. 1818 amends current law relating to the disposition of confiscated game, animal parts, and animal products.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 12.109(b) and (d), Parks and Wildlife Code, as follows:

(b) Requires that the proceeds of the sale of confiscated aquatic products be deposited in the state treasury to the credit of the appropriate suspense fund, rather than suspense account No. 900, pending the outcome of the action taken against the person charged with illegal possession.

(d) Requires all the proceeds, if the person 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 (Notice to Appear) or another law requiring that, as a condition of release, the defendant subsequently appear before a court to answer for the offense, to be transferred to the credit of the game, fish, and water safety account. Requires the Texas Parks and Wildlife Department (TPWD), 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, to pay the proceeds of the sale to the person from whom the aquatic products were seized. Deletes existing text requiring that all the proceeds, unless the person is found guilty, pleads guilty or nolo contendere, or is placed on deferred adjudication, be paid to the owner of the aquatic products.

SECTION 2. Amends Section 12.110(d), Parks and Wildlife Code, as follows:

(d) Requires TPWD to deposit the proceeds of the sale of confiscated live game in the state treasury to the credit of the appropriate suspense fund, rather than suspense account 900, pending the outcome of any action against the person charged with an unlawful action described by Subsection (a). Requires TPWD, if that person 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, to transfer, rather than deposit, the proceeds of the sale to the credit of the game, fish, and water safety account. Requires TPWD, if the person is acquitted by the trial court, rather than if the person is found not guilty, the charges against the person are dismissed, or the statute of limitations period for the prosecution of the offense has expired, to pay the proceeds of the sale to the person from whom the game was seized. Makes nonsubstantive changes.

SECTION 3. Amends Section 12.1101, Parks and Wildlife Code, as follows:

Sec. 12.1101. New heading: SEIZURE AND DISPOSAL OF CERTAIN ANIMALS' PELTS AND CARCASSES. (a) Authorizes a game warden or authorized employee of TPWD to seize a fur-bearing animal, pelt, or carcass taken or possessed in violation of a provision of this code or a lawful regulation of the Texas Parks and Wildlife Commission (TPWC). Makes nonsubstantive changes. Deletes existing text requiring the warden or employee, if an alleged violator is charged with a violation of a provision of this code or of a regulation of TPWC in connection with the pelt seized, to hold the pelt as evidence. Deletes existing text authorizing the pelts, on conviction of the alleged violator or on his plea of nolo contendere, to be sold to the highest bidder after taking the minimum of three written bids by TPWD. Deletes existing text requiring the pelts, if the alleged violator is not guilty of the offense or if the charge is dismissed, to be returned to their lawful owner.

(b) Authorizes TPWD to sell a confiscated fur-bearing animal, pelt, or carcass to the highest of three bidders. Requires TPWD, at the time of a sale under this subsection, to provide the buyer a receipt for all fur-bearing animals, pelts, or carcasses sold to the buyer. Requires TPWD to deposit the proceeds of the sale in the state treasury to the credit of the appropriate suspense fund pending the outcome of any action against the person charged with an unlawful action described by Subsection (a). Requires TPWD, if that person 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, to transfer the proceeds of the sale to the credit of the game, fish, and water safety account. Requires TPWD, 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, to pay the proceeds of the sale to the person from whom the items were seized.

(c) Creates this subsection from existing text. Provides that a game warden or authorized employee of TPWD acting under the authority of this section is immune from liability and from suit for the seizure of items under this section, rather than seizure of pelts.

SECTION 4. Amends Section 65.009(b), Parks and Wildlife Code, as follows:

(b) Requires TPWD, if a person from whom an item described by Subsection (a) (relating to authorizing a game warden or any other peace officer to seize an alligator, alligator hide, alligator egg, or any part of an alligator) 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, to transfer the proceeds of the sale from the suspense fund to the credit of the game, fish, and water safety account. Requires TPWD, 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, to pay the proceeds of the sale to the person from whom the items were seized. Deletes existing text requiring TPWD, on conviction of a violation, on a plea of nolo contendere, or on assessment of deferred adjudication in

connection with an alligator, alligator hide, alligator egg, or alligator part seized under this section, to transfer the proceeds of the sale from the suspense fund to the game, fish, and water safety fund.

SECTION 5. Repealer: Section 65.009(c) (relating to requiring TPWD to transfer to the owner the entire proceeds of the sale of the alligator, alligator hide, alligator egg, or alligator part), Parks and Wildlife Code.

SECTION 6. (a) Provides that the changes in law made by this Act apply only to items seized by TPWD on or after the effective date of this Act. Provides that items seized before the effective date of this Act are covered by the law in effect on the date of the seizure, and the former law is continued in effect for that purpose.

(b) Provides that the changes in law made by this Act apply to funds under the control of TPWD on and after the effective date of this Act acquired by the sale of seized items under Sections 12.109, 12.110, 12.1101, and 65.009, Parks and Wildlife Code, regardless of whether those items were seized before, on, or after the effective date of this Act.

SECTION 7. Effective date: September 1, 2013.