

AN ACT

relating to the continuation and functions of the Parks and Wildlife Department; changing the elements of an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.0111, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.0111. SUNSET PROVISION. The Parks and Wildlife Department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2021 [~~2009~~].

SECTION 2. Section 11.012(c), Parks and Wildlife Code, is amended to read as follows:

(c) Commission [~~Three commission~~] members must be members of the general public and meet the qualifications provided by Section 11.0121 [~~of this code~~].

SECTION 3. Sections 11.0161(a), (b), (c), and (d), Parks and Wildlife Code, are amended to read as follows:

(a) The commission shall prepare information of public interest describing the functions of the commission [~~and describing the commission's procedures by which complaints are filed with and resolved by the commission~~]. The commission shall make the information available to the general public and appropriate state agencies.

(b) The department shall maintain a system to promptly and

1 efficiently act on complaints [~~file on each written complaint~~]
2 filed with the department that the department has the authority to
3 resolve. The department shall maintain information about parties
4 to the complaint, the subject matter of the complaint, [~~file must~~
5 ~~include:~~

6 [~~(1) the name of the person who filed the complaint,~~

7 [~~(2) the date the complaint is received by the~~
8 ~~department,~~

9 [~~(3) the subject matter of the complaint,~~

10 [~~(4) the name of each person contacted in relation to~~
11 ~~the complaint,~~

12 [~~(5)] a summary of the results of the review or~~

13 investigation of the complaint, and its disposition [~~and~~

14 [~~(6) an explanation of the reason the file was closed,~~
15 ~~if the department closed the file without taking action other than~~
16 ~~to investigate the complaint].~~

17 (c) The department shall make information available
18 describing its [~~provide to the person filing the complaint and to~~
19 ~~each person who is a subject of the complaint a copy of the~~
20 ~~department's policies and] procedures for [~~relating to~~] complaint
21 investigation and resolution.~~

22 (d) The department [~~at least quarterly until final~~
23 ~~disposition of the complaint,~~] shall periodically notify the
24 [~~person filing the~~] complaint parties [~~and each person who is a~~
25 ~~subject of the complaint] of the status of the complaint until final
26 disposition [~~investigation unless the notice would jeopardize an~~
27 ~~undercover investigation].~~~~

1 SECTION 4. Subchapter B, Chapter 11, Parks and Wildlife
2 Code, is amended by adding Sections 11.0163, 11.0164, and 11.0174
3 to read as follows:

4 Sec. 11.0163. USE OF TECHNOLOGY. The commission shall
5 implement a policy requiring the department to use appropriate
6 technological solutions to improve the department's ability to
7 perform its functions. The policy must ensure that the public is
8 able to interact with the department on the Internet.

9 Sec. 11.0164. NEGOTIATED RULEMAKING AND ALTERNATIVE
10 DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop
11 and implement a policy to encourage the use of:

12 (1) negotiated rulemaking procedures under Chapter
13 2008, Government Code, for the adoption of department rules; and

14 (2) appropriate alternative dispute resolution
15 procedures under Chapter 2009, Government Code, to assist in the
16 resolution of internal and external disputes under the department's
17 jurisdiction.

18 (b) The department's procedures relating to alternative
19 dispute resolution must conform, to the extent possible, to any
20 model guidelines issued by the State Office of Administrative
21 Hearings for the use of alternative dispute resolution by state
22 agencies.

23 (c) The commission shall designate a trained person to:

24 (1) coordinate the implementation of the policy
25 adopted under Subsection (a);

26 (2) serve as a resource for any training needed to
27 implement the procedures for negotiated rulemaking or alternative

1 dispute resolution; and

2 (3) collect data concerning the effectiveness of those
3 procedures, as implemented by the department.

4 Sec. 11.0174. INTERNAL AFFAIRS OFFICE. (a) The executive
5 director shall establish the office of internal affairs.

6 (b) The office of internal affairs has original
7 departmental jurisdiction over all investigations of cases
8 alleging criminal conduct:

9 (1) occurring on department property;

10 (2) engaged in by on-duty department employees; or

11 (3) engaged in by officers commissioned by the
12 department performing off-duty work related to their official
13 duties.

14 (c) The office of internal affairs shall oversee and review,
15 but need not conduct, all investigations under this section.

16 (d) An investigation under this section may be initiated
17 only by the executive director or the commission.

18 (e) The executive director shall appoint the head of the
19 office of internal affairs. The head of the office of internal
20 affairs serves until removed by the executive director.

21 (f) The head of the office of internal affairs shall:

22 (1) report directly to the executive director
23 regarding performance of and activities related to investigations;

24 (2) report to the executive director for
25 administrative purposes; and

26 (3) provide the executive director or commission with
27 information regarding investigations as appropriate.

1 (g) The head of the office of internal affairs shall present
2 at each regularly scheduled commission meeting and at other
3 appropriate times a summary of information relating to
4 investigations conducted under this section that includes analysis
5 of the number, type, and outcome of investigations, trends in the
6 investigations, and any recommendations to avoid future
7 complaints.

8 SECTION 5. Section 11.035, Parks and Wildlife Code, is
9 amended by adding Subsection (c) to read as follows:

10 (c) The department may deposit to the credit of the state
11 parks account all revenue, less allowable costs, from the following
12 sources:

13 (1) private contributions, grants, and donations
14 received for state parks-related purposes; and

15 (2) federal funds received for state parks-related
16 purposes.

17 SECTION 6. Section 11.037(b), Parks and Wildlife Code, is
18 amended to read as follows:

19 (b) The department may [~~shall~~] deposit in the state land and
20 water conservation account any [~~all~~] revenue received from the
21 federal government or any other source for the purpose of
22 administering programs authorized under Sections 13.301 through
23 13.311 of this code.

24 SECTION 7. Section 12.0011, Parks and Wildlife Code, is
25 amended by adding Subsections (c) and (d) to read as follows:

26 (c) An agency with statewide jurisdiction that receives a
27 department recommendation or informational comment under

1 Subsection (b) shall respond to the department in writing
2 concerning the recommendation or comment. A response must include
3 for each recommendation or comment provided by the department:

4 (1) a description of any modification made to the
5 proposed project, fish and wildlife resource decision, or water
6 flow schedule resulting from the recommendation or comment;

7 (2) any other disposition of the recommendation or
8 comment; and

9 (3) as applicable, any reason the agency disagreed
10 with or did not act on or incorporate the recommendation or comment.

11 (d) A response under Subsection (c):

12 (1) must be submitted to the department not later than
13 the 90th day after the date the agency makes a decision or takes
14 other action related to the recommendation or informational comment
15 provided by the department; and

16 (2) is public information under Chapter 552,
17 Government Code.

18 SECTION 8. Section 12.027, Parks and Wildlife Code, is
19 amended to read as follows:

20 Sec. 12.027. ADOPTION OF EMERGENCY RULES. If the
21 commission or the executive director finds that there is an
22 immediate danger to a species authorized to be regulated by the
23 department, or that strict compliance with existing department
24 rules would in any way prevent, hinder, or delay necessary action in
25 coping with a disaster declared by the governor, the commission or
26 the executive director may adopt emergency rules as provided by
27 Chapter 2001, Government Code.

1 SECTION 9. Section 13.310(c), Parks and Wildlife Code, is
2 amended to read as follows:

3 (c) The department shall deposit all funds received for the
4 development of outdoor recreation resources in the state treasury
5 to the credit of the state land and water conservation account, the
6 Texas recreation and parks account, the large county and
7 municipality recreation and parks account, or the state parks
8 account.

9 SECTION 10. Sections 24.002, 24.003, 24.006, 24.052,
10 24.053, and 24.056, Parks and Wildlife Code, are amended to read as
11 follows:

12 Sec. 24.002. TEXAS RECREATION AND PARKS ACCOUNT. The Texas
13 recreation and parks account is a separate account in the general
14 revenue fund. Money in the account may be used only [~~as provided by~~
15 ~~this subchapter~~] for [~~grants to~~]:

16 (1) grants under this subchapter to a county or
17 municipality with a population of less than 500,000; [~~or~~]

18 (2) grants under this subchapter to any other
19 political subdivision that is not a county or municipality; or

20 (3) planning for, and acquisition, operation, and
21 development of, outdoor recreation and conservation resources of
22 this state and the administrative expenses incident to the projects
23 or programs authorized under Subchapter D, Chapter 13.

24 Sec. 24.003. ACCOUNT REVENUE SOURCE; REVENUE DEDICATION.

25 (a) The department shall deposit to the credit of the Texas
26 recreation and parks account:

27 (1) an amount of money equal to 15 percent of the

1 credits made to the department under Section 151.801, Tax Code; and

2 (2) money from any other source authorized by law.

3 (b) The department may deposit to the credit of the Texas
4 recreation and parks account:

5 (1) private contributions, grants, and donations
6 received in connection with this subchapter or Subchapter D,
7 Chapter 13; and

8 (2) federal funds received in connection with this
9 subchapter or Subchapter D, Chapter 13.

10 Sec. 24.006. FUNDS FOR GRANTS TO LOCAL GOVERNMENTS. When
11 state revenues to the Texas recreation and parks account exceed \$14
12 million per year, an amount not less than 15 percent shall be made
13 available for grants to local governments for up to 50 percent of
14 the cost of acquisition or development of indoor public recreation
15 facilities for indoor recreation programs, sports activities,
16 nature programs, or exhibits.

17 Sec. 24.052. LARGE COUNTY AND MUNICIPALITY RECREATION AND
18 PARKS ACCOUNT. The large county and municipality recreation and
19 parks account is a separate account in the general revenue fund.
20 Money in the account may be used only as provided by this subchapter
21 or Subchapter D, Chapter 13.

22 Sec. 24.053. ACCOUNT REVENUE SOURCE; DEDICATION. (a) The
23 department shall deposit to the credit of the large county and
24 municipality recreation and parks account:

25 (1) an amount of money equal to 10 percent of the
26 credits made to the department under Section 151.801, Tax Code; and

27 (2) money from any other source authorized by law.

1 (b) The department may deposit to the credit of the large
2 county and municipality recreation and parks account:

3 (1) private contributions, grants, and donations
4 received in connection with this subchapter or Subchapter D,
5 Chapter 13; and

6 (2) federal funds received in connection with this
7 subchapter or Subchapter D, Chapter 13.

8 Sec. 24.056. FUNDS FOR GRANTS TO LARGE COUNTIES AND
9 MUNICIPALITIES. When state revenue to the large county and
10 municipality recreation and parks account exceeds \$14 million per
11 year, an amount not less than 15 percent shall be made available for
12 grants to large counties and municipalities for up to 50 percent of
13 the cost of acquisition or development of indoor public recreation
14 facilities for indoor recreation programs, sports activities,
15 nature programs, or exhibits.

16 SECTION 11. Section 43.071(5), Parks and Wildlife Code, is
17 amended to read as follows:

18 (5) "Pen-reared birds" means bobwhite quail,
19 pheasant, pigeons, partridge, and mallard ducks propagated or
20 acquired under Chapter 45 of this code.

21 SECTION 12. Section 62.021(c), Parks and Wildlife Code, is
22 amended to read as follows:

23 (c) This section does not prohibit the sale of:

24 (1) a live game animal, a dead or live game bird, or
25 the feathers of a game bird if the sale is conducted under authority
26 of a license or permit issued under this code; or

27 (2) the following inedible parts:

1 (A) an inedible part, including the feathers,
2 bones, or feet, of a game bird other than a migratory game bird that
3 was lawfully taken or is lawfully possessed;

4 (B) the hair, hide, antlers, bones, horns, skull,
5 hooves, or sinew, as applicable, of a deer, pronghorn antelope,
6 desert bighorn sheep, collared peccary or javelina, red squirrel,
7 or gray squirrel; or

8 (C) the feathers of a migratory game bird in
9 accordance with federal law.

10 SECTION 13. Section 64.002(b), Parks and Wildlife Code, is
11 amended to read as follows:

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

16 SECTION 14. Section 66.007, Parks and Wildlife Code, is
17 amended by amending Subsections (b), (c), and (e) and adding
18 Subsections (m), (n), (o), (p), (q), (r), and (s) to read as
19 follows:

20 (b) The department shall publish a list of:

21 (1) exotic fish and exotic~~[7]~~ shellfish~~[7 and aquatic~~
22 ~~plants]~~ for which a permit under Subsection (a) ~~[of this section]~~ is
23 required; and

24 (2) exotic aquatic plants, as provided by this
25 section, that are approved for importation into or possession in
26 this state without a permit.

27 (c) The department shall make rules to carry out the

1 provisions of this section. In adopting rules that relate to exotic
2 aquatic plants, the department shall strive to ensure that the
3 rules are as permissive as possible without allowing the
4 importation or possession of plants that pose environmental,
5 economic, or health problems.

6 (e) In this section:

7 (1) "Approved list" means the list published by the
8 department under Subsection (b)(2) of exotic aquatic plants that a
9 person may import into or possess in this state without an exotic
10 species permit issued by the department.

11 (2) "Exotic [~~, exotic fish, shellfish, or~~] aquatic
12 plant" means a nonindigenous [~~fish, shellfish, or~~] aquatic plant
13 that is not normally found in aquatic or riparian areas [~~the public~~
14 water] of this [~~the~~] state.

15 (3) "Exotic fish" means a nonindigenous fish that is
16 not normally found in the public water of this state.

17 (4) "Exotic shellfish" means a nonindigenous
18 shellfish that is not normally found in the public water of this
19 state.

20 (m) A person may not import into or possess in this state an
21 exotic aquatic plant unless:

22 (1) the plant is on the approved list; or

23 (2) the person has an exotic species permit issued by
24 the department.

25 (n) In compiling the approved list, the department shall
26 develop a process to evaluate the potential harm that may be caused
27 by the importation or possession of exotic aquatic plant species

1 into this state. The process must include the use of:

- 2 (1) a risk assessment model to help determine the
3 potential harm of a species to the aquatic environment;
4 (2) published scientific research findings;
5 (3) findings from regulatory agencies; or
6 (4) scientific analyses from third-party
7 laboratories.

8 (o) The approved list must include an exotic aquatic plant
9 that:

- 10 (1) is widespread in this state; and
11 (2) is not, as determined by the department, a cause of
12 environmental, economic, or health problems.

13 (p) The department shall develop an expedited process for
14 obtaining approval for inclusion on the approved list of a
15 previously unknown exotic aquatic plant. The commission may remove
16 an exotic aquatic plant from the approved list if the results of
17 further analysis conducted under Subsection (n) indicate that the
18 plant should not be on the list. The department may enact an
19 emergency rule as provided by Chapter 2001, Government Code, to
20 remove an exotic aquatic plant from the approved list if the plant
21 is determined to cause environmental, economic, or health problems.

22 (q) The commission shall exercise final approval for the
23 inclusion of each plant on the approved list.

24 (r) In accordance with commission rules, the department may
25 issue an exotic species permit to a permit applicant for an exotic
26 aquatic plant not on the approved list if the proposed use of the
27 plant is:

1 (1) as an experimental organism in a medical or other
2 scientific research program approved by the department;

3 (2) as part of an exhibit approved by the department in
4 a public aquarium or public zoo; or

5 (3) for an appropriate use that will not result in
6 potential environmental, economic, or health problems.

7 (s) Nothing in this subchapter regarding exotic aquatic
8 plants restricts the department's authority under this code
9 regarding exotic harmful or potentially harmful fish or shellfish.

10 SECTION 15. Section 66.0071, Parks and Wildlife Code, is
11 amended to read as follows:

12 Sec. 66.0071. REMOVAL OF HARMFUL AQUATIC PLANTS. On
13 leaving any public or private body of water in this state, a person
14 shall immediately remove and lawfully dispose of any exotic
15 ~~[harmful or potentially harmful]~~ aquatic plant not included on the
16 approved list published under Section 66.007(b) (2) that is clinging
17 or attached to the person's:

18 (1) vessel or watercraft; or

19 (2) trailer, motor vehicle, or other mobile device
20 used to transport or launch a vessel or watercraft.

21 SECTION 16. Title 6, Parks and Wildlife Code, is amended by
22 adding Chapter 92 to read as follows:

23 CHAPTER 92. INTERSTATE WILDLIFE VIOLATOR COMPACT

24 Sec. 92.001. MEMBERSHIP IN INTERSTATE WILDLIFE VIOLATOR
25 COMPACT. (a) On behalf of this state, the commission may enter
26 into the Interstate Wildlife Violator Compact.

27 (b) If necessary to protect the interests of this state, the

1 commission may withdraw from the Interstate Wildlife Violator
2 Compact in accordance with the terms of the compact.

3 (c) The commission may take all actions necessary to
4 implement this chapter, including the adoption of rules and the
5 delegation of authority to the director.

6 SECTION 17. (a) The Parks and Wildlife Department and the
7 Texas Youth Commission jointly shall seek representation by the
8 attorney general to pursue a modification of the terms and purposes
9 of the Parrie Haynes Trust.

10 (b) The legislature intends that a modification of the terms
11 and purposes of the Parrie Haynes Trust be pursued so that:

12 (1) the department may be designated as the state
13 agency responsible for the trust, including all trust property and
14 investments, and rights associated with the trust;

15 (2) control of the Parrie Haynes Ranch may be
16 transferred to the department; and

17 (3) the purposes of the trust may be appropriately
18 expanded to include benefiting disadvantaged and other youths of
19 this state.

20 (c) This section expires on the earlier of:

21 (1) the date a court orders modification of the Parrie
22 Haynes Trust in accordance with this section; or

23 (2) September 1, 2021.

24 SECTION 18. The change in law made by this Act in the
25 qualifications of the members of the Parks and Wildlife Commission
26 does not affect the entitlement of a person serving as a member of
27 the commission immediately before September 1, 2009, to continue to

1 carry out the functions of the person's office for the remainder of
2 the person's term. The change in law applies only to a person
3 appointed on or after September 1, 2009. This Act does not prohibit
4 a person who is a member of the Parks and Wildlife Commission
5 immediately before September 1, 2009, from being reappointed as a
6 commission member if the person has the qualifications required for
7 the position under Chapter 11, Parks and Wildlife Code, as amended
8 by this Act.

9 SECTION 19. The change in law made by this Act to Section
10 11.0161, Parks and Wildlife Code, applies only to a complaint filed
11 with the Parks and Wildlife Commission or the Parks and Wildlife
12 Department on or after September 1, 2009. A complaint filed before
13 September 1, 2009, is governed by the law in effect at the time the
14 complaint was filed, and the former law is continued in effect for
15 that purpose.

16 SECTION 20. Section 12.0011(c), Parks and Wildlife Code, as
17 added by this Act, applies only to a recommendation or
18 informational comment received by a local or state governmental
19 agency from the Parks and Wildlife Department on or after September
20 1, 2009. A recommendation or informational comment received by a
21 local or state governmental agency from the Parks and Wildlife
22 Department before September 1, 2009, is governed by the law in
23 effect at the time the recommendation or informational comment was
24 received, and the former law is continued in effect for that
25 purpose.

26 SECTION 21. Section 62.021(c), Parks and Wildlife Code, as
27 amended by this Act, applies to any sale of inedible parts of an

1 animal or bird occurring on or after the effective date of this Act,
2 regardless of the date the parts were acquired by the seller.

3 SECTION 22. (a) Not later than December 31, 2010, the Parks
4 and Wildlife Department shall publish the initial list of approved
5 exotic aquatic plants as provided by Section 66.007(b), Parks and
6 Wildlife Code, as amended by this Act.

7 (b) The Parks and Wildlife Department may not enforce the
8 permit requirements or prohibited actions regarding exotic aquatic
9 plants that are not on the approved list under Section 66.007(b),
10 Parks and Wildlife Code, as amended by this Act, before the date on
11 which the list is published.

12 (c) The Parks and Wildlife Department shall continue to
13 publish a list of harmful or potentially harmful exotic aquatic
14 plants for which a permit under Section 66.007(a), Parks and
15 Wildlife Code, is required until the date on which the initial list
16 of approved exotic aquatic plants is published. The department is
17 not required to maintain or publish the list of harmful or
18 potentially harmful exotic aquatic plants after the date on which
19 the list of approved exotic aquatic plants is published.

20 (d) The Parks and Wildlife Department shall continue to
21 enforce Section 66.007, Parks and Wildlife Code, with regard to
22 harmful or potentially harmful exotic aquatic plants that are
23 included on the list for which a permit is required under that
24 section as it existed immediately before the effective date of this
25 Act, and that law is continued in effect until the date on which the
26 department publishes the initial list of approved exotic aquatic
27 plants.

1 (e) The provisions of Section 66.007, Parks and Wildlife
2 Code, as amended by this Act, regarding harmful or potentially
3 harmful exotic aquatic plants apply only to an offense that occurs
4 on or after the date on which the Parks and Wildlife Department
5 publishes the initial list of approved exotic aquatic plants. An
6 offense that occurs before the date on which the initial list of
7 approved exotic aquatic plants is published is governed by the law
8 in effect immediately before the effective date of this Act, and
9 that law is continued in effect for that purpose. For purposes of
10 this subsection, an offense is committed before the date on which
11 the initial list of approved exotic aquatic plants is published if
12 any element of the offense occurs before that date.

13 (f) The Parks and Wildlife Department may not enforce the
14 permit requirements or prohibited actions regarding exotic aquatic
15 plants on the list of harmful or potentially harmful plants under
16 Section 66.007, Parks and Wildlife Code, as that section existed
17 before amendment by this Act, after the date on which the list of
18 approved exotic aquatic plants is published.

19 (g) Section 66.0071, Parks and Wildlife Code, as amended by
20 this Act, applies only to a person who takes a vessel or watercraft
21 out of a public or private body of water in this state on or after
22 the date the Parks and Wildlife Department publishes the initial
23 list of approved exotic aquatic plants under Section 66.007(b),
24 Parks and Wildlife Code, as amended by this Act. A person who takes
25 a vessel or watercraft out of a public or private body of water in
26 this state before the date the list of approved exotic aquatic
27 plants is published is governed by the law in effect on the date the

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1 vessel or watercraft is taken out of the water, and the former law
2 remains in effect for that purpose.

3 SECTION 23. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 3391 was passed by the House on May 4, 2009, by the following vote: Yeas 137, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3391 on May 23, 2009, by the following vote: Yeas 138, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3391 was passed by the Senate, with amendments, on May 21, 2009, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor