

By: Williams, Campbell

S.B. No. 820

A BILL TO BE ENTITLED

AN ACT

relating to procedures relating to the issuance and renewal of, and certain notice requirements associated with, certain deer permits.

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

SECTION 1. Subsection (b), Section 12.501, Parks and Wildlife Code, is amended to read as follows:

(b) Except as provided by Subchapter G, the ~~[The]~~ director may suspend or revoke an original or renewal permit or license issued under this code if it is found, after notice and hearing, that:

(1) the permittee or licensee has been finally convicted of a violation of this code or proclamation or regulation adopted under this code relating to the permit or license to be suspended or revoked;

(2) the permittee or licensee violated a provision of this code or proclamation or regulation adopted under this code relating to the permit or license to be suspended or revoked;

(3) the permittee or licensee made a false or misleading statement in connection with the permittee's or licensee's ~~[his]~~ original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission or its officers or employees;

(4) the permittee or licensee is indebted to the state

1 for taxes, fees, or payment of penalties imposed by this code or by
2 a commission rule relating to a permit or license to be suspended or
3 revoked; or

4 (5) the permittee or licensee is liable to the state
5 under Section 12.301.

6 SECTION 2. Section 12.506, Parks and Wildlife Code, is
7 amended by adding Subsection (c) to read as follows:

8 (c) This section does not apply to a permit to which
9 Subchapter G applies.

10 SECTION 3. Subsection (b), Section 12.508, Parks and
11 Wildlife Code, is amended to read as follows:

12 (b) Except as provided by Subchapter G, the ~~The~~ department
13 may refuse to issue or transfer an original or renewal license,
14 permit, or tag if the applicant or transferee:

15 (1) has been finally convicted of a violation under
16 this code or a rule adopted or a proclamation issued under this
17 code;

18 (2) is liable to the state under Section 12.301; and

19 (3) has failed to fully pay the amount due under
20 Section 12.301 after the department has issued notice of liability
21 to the applicant or transferee.

22 SECTION 4. Chapter 12, Parks and Wildlife Code, is amended
23 by adding Subchapter G to read as follows:

24 SUBCHAPTER G. REFUSAL TO ISSUE OR RENEW AND APPEAL OF CERTAIN

25 DECISIONS REGARDING CERTAIN PERMITS RELATING TO THE CONTROL,

26 BREEDING, OR MANAGEMENT OF DEER

27 Sec. 12.601. APPLICABILITY OF SUBCHAPTER. This subchapter

applies only to the following permits:

(1) a trap, transport, and transplant permit under Section 43.061 or 43.0611;

(2) a trap, transport, and process permit under Section 43.0612;

(3) a deer breeder's permit under Subchapter L, Chapter 43;

(4) a white-tailed deer management permit under Subchapter R, Chapter 43; and

(5) a mule deer management permit under Subchapter R-1, Chapter 43.

Sec. 12.602. DEFINITIONS. In this subchapter:

(1) "Applicant" means a person who has applied for a new or renewal permit.

(2) "Final conviction" means a final judgment of guilt, the granting of deferred adjudication or pretrial diversion, or the entering of a plea of guilty or nolo contendere.

(3) "Permittee" means a person to whom a permit has been issued, including each member of a partnership or association, an agent acting on behalf of a partnership or association, each officer of a corporation, and the owner of a majority of a corporation's corporate stock.

Sec. 12.603. GENERAL CIRCUMSTANCES FOR REFUSAL TO ISSUE OR RENEW PERMIT. The department may refuse to issue or renew a permit if the applicant fails to submit in a timely manner the following:

(1) a completed application on a form supplied by the department and all application materials required by the

1 department;

2 (2) the required permit fee;

3 (3) accurate reports as applicable; and

4 (4) any additional information that the department
5 determines is necessary to process the application.

6 Sec. 12.604. REFUSAL TO ISSUE OR RENEW PERMIT BASED ON
7 CERTAIN PENALTIES OR CONVICTIONS. (a) This section applies only
8 to a determination of whether to issue a permit to or renew a permit
9 for an applicant who has a final conviction or has been assessed an
10 administrative penalty for a violation of:

11 (1) Subchapter C, E, L, R, or R-1, Chapter 43;

12 (2) a provision of this code not described by
13 Subdivision (1) that is punishable as a Class A or B Parks and
14 Wildlife Code misdemeanor, a Parks and Wildlife Code state jail
15 felony, or a Parks and Wildlife Code felony;

16 (3) Section 63.002; or

17 (4) the Lacey Act Amendments of 1981 (16 U.S.C.
18 Sections 3371-3378).

19 (b) In determining whether to issue a permit to or renew a
20 permit for an applicant who has a final conviction or has been
21 assessed an administrative penalty, the department shall consider:

22 (1) the number of convictions or administrative
23 penalties and the seriousness of each conviction;

24 (2) the existence, number, and seriousness of offenses
25 or violations other than offenses or violations that resulted in a
26 final conviction or administrative penalty described by Subsection
27 (a);

1 (3) the length of time between the most recent final
2 conviction or administrative penalty and the permit application;

3 (4) whether the final conviction, administrative
4 penalty, or other offense or violation was the result of negligence
5 or intentional conduct;

6 (5) the applicant's efforts toward rehabilitation;

7 (6) the accuracy of the permit history information
8 provided by the applicant; and

9 (7) other mitigating factors.

10 Sec. 12.605. PROCEDURE FOR REFUSAL TO ISSUE OR RENEW
11 PERMIT. (a) Not later than the 10th day after the date a decision
12 to refuse to issue or renew a permit has been made, the department
13 shall provide to the applicant a written statement of the reasons
14 for the decision.

15 (b) The commission by rule shall adopt procedures
16 consistent with this subchapter for the department's review of a
17 refusal to issue or renew a permit.

18 Sec. 12.606. REVIEW OF REFUSAL TO ISSUE OR RENEW PERMIT. In
19 conducting a review of a decision by the department to refuse to
20 issue or renew a permit, the department shall consider:

21 (1) whether the conduct on which the refusal is based
22 was negligent or intentional;

23 (2) for a refusal based on conduct that is a violation
24 of a provision listed in Section 12.604(a), whether the applicant
25 has a final conviction or has been assessed an administrative
26 penalty based on the conduct;

27 (3) the seriousness of an offense or violation

1 described by Subdivision (2) for which the applicant was finally
2 convicted or assessed an administrative penalty;

3 (4) whether the conduct on which the refusal was based
4 was committed or omitted by the applicant, an agent of the
5 applicant, or both;

6 (5) for a renewal, whether the applicant agreed to any
7 special conditions recommended by the department in lieu of a
8 decision to refuse to issue or renew the expiring permit;

9 (6) whether there is a substantial likelihood that the
10 applicant would repeat the conduct on which the refusal is based;

11 (7) whether the conduct on which the refusal is based
12 involved a threat to public safety; and

13 (8) other mitigating factors.

14 Sec. 12.607. APPEAL OF DEPARTMENT DECISION TO REVOKE,
15 SUSPEND, OR REFUSE PERMIT. (a) Except as provided by this
16 section, the revocation or suspension of a permit is governed by
17 Subchapter F.

18 (b) Venue for appealing a decision of the department
19 refusing to issue or renew a permit or revoking or suspending a
20 permit is a district court in Travis County.

21 (c) The appeal shall be by trial de novo.

22 SECTION 5. Subchapter L, Chapter 43, Parks and Wildlife
23 Code, is amended by adding Section 43.370 to read as follows:

24 Sec. 43.370. NOTICE OF DEPARTMENT DESTRUCTION OR REMOVAL OF
25 DEER. (a) The department must provide notice to a deer breeder
26 before the department destroys or removes any breeder deer from a
27 facility permitted under this subchapter.

1 (b) A notice provided under this section must be sent by
2 certified mail to the last known address of the deer breeder and
3 must contain:

4 (1) a short statement identifying the specific deer to
5 be destroyed or removed;

6 (2) the approximate date of destruction or removal,
7 which may not be sooner than the 10th day after the date of the
8 notice; and

9 (3) the reasons for the destruction or removal.

10 (c) The deer breeder may waive the 10-day waiting period
11 required under Subsection (b)(2).

12 SECTION 6. Subchapter R, Chapter 43, Parks and Wildlife
13 Code, is amended by adding Section 43.6055 to read as follows:

14 Sec. 43.6055. NOTICE OF DEPARTMENT DESTRUCTION OR REMOVAL
15 OF DEER. (a) The department must provide notice to a permit holder
16 before the department destroys or removes any deer from the acreage
17 covered by the permit.

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

21 (1) a short statement identifying the specific deer to
22 be destroyed or removed;

23 (2) the approximate date of destruction or removal,
24 which may not be sooner than the 10th day after the date of the
25 notice; and

26 (3) the reasons for the destruction or removal.

27 (c) The permit holder may waive the 10-day waiting period

1 required under Subsection (b)(2).

2 SECTION 7. Subchapter R-1, Chapter 43, Parks and Wildlife
3 Code, is amended by adding Section 43.6255 to read as follows:

4 Sec. 43.6255. NOTICE OF DEPARTMENT DESTRUCTION OR REMOVAL
5 OF DEER. (a) The department must provide notice to a permit holder
6 before the department destroys or removes any deer from the acreage
7 covered by the permit.

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

11 (1) a short statement identifying the specific deer to
12 be destroyed or removed;

13 (2) the approximate date of destruction or removal,
14 which may not be sooner than the 10th day after the date of the
15 notice; and

16 (3) the reasons for the destruction or removal.

17 (c) The permit holder may waive the 10-day waiting period
18 required under Subsection (b)(2).

19 SECTION 8. (a) Except as provided by Subsection (b) of
20 this section, the changes in law made by this Act apply only to a
21 permit to which Subchapter G, Chapter 12, Parks and Wildlife Code,
22 as added by this Act, applies that is issued or renewed on or after
23 the effective date of this Act. A permit issued or renewed before
24 the effective date of this Act is governed by the law as it existed
25 immediately before the effective date of this Act, and that law is
26 continued in effect for that purpose.

27 (b) Section 12.607, Parks and Wildlife Code, as added by

1 this Act, applies only to an appeal from a decision of the Parks and
2 Wildlife Department refusing to issue or renew a permit or revoking
3 or suspending a permit that is filed on or after the effective date
4 of this Act. An appeal filed before the effective date of this Act
5 is governed by the law in effect on the date the appeal was filed,
6 and that law is continued in effect for that purpose.

7 SECTION 9. This Act takes effect September 1, 2013.