PARKS AND WILDLIFE CODE

TITLE 2. PARKS AND WILDLIFE DEPARTMENT

CHAPTER 12. POWERS AND DUTIES CONCERNING WILDLIFE

SUBCHAPTER A. GENERAL POWERS AND DUTIES

Sec. 12.001. GENERAL DUTIES. (a) The department shall administer the laws relating to game, fish, oysters, and marine life, as set out in this code.

(b) The department may:

(1) collect and enforce the payment of all taxes, licenses, fines, and forfeitures due to the department;

(2) inspect all products required to be taxed by the laws relating to game, fish, oysters, and marine life and verify the weights and measures of the products;

(3) examine on request all streams, lakes, and ponds for the purpose of stocking with fish best suited to the locations;

(4) manage the propagation and distribution of fish in state fish hatcheries; and

(5) manage the propagation and distribution of birds and game in state reservations.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975.

Sec. 12.0011. RESOURCE PROTECTION. (a) The department is the state agency with primary responsibility for protecting the state's fish and wildlife resources.

(b) The department's resource protection activities include:

(1) investigating fish kills and any type of pollution that may cause loss of fish or wildlife resources, taking necessary action to identify the cause and party responsible for the fish kill or pollution, estimating the monetary value of lost resources, and seeking restoration through presentation of evidence to the agency responsible for permitting or through suit in county or district court;

(2) providing recommendations that will protect fish and wildlife resources to local, state, and federal agencies that

approve, permit, license, or construct developmental projects;

(3) providing information on fish and wildlife resources to any local, state, and federal agencies or private organizations that make decisions affecting those resources; and

(4) providing recommendations to the Texas Department of Water Resources on scheduling of in-stream flows and freshwater inflows to Texas estuaries for the management of fish and wildlife resources.

(b-1) Recommendations and information submitted by the department under Subsection (b) in response to a request for comments from the Texas Department of Transportation must be submitted not later than the 45th day after the date the department receives the request.

(c) An agency with statewide jurisdiction that receives a department recommendation or informational comment under Subsection (b) shall respond to the department in writing concerning the recommendation or comment. A response must include for each recommendation or comment provided by the department:

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

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

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

(d) A response under Subsection (c):

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

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

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 23, eff. Sept. 1, 1985.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 952 (H.B. 3391), Sec. 7, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 1(a), eff. September 1, 2011.

Sec. 12.003. RECORDS. (a) The department shall keep a record containing the following information:

(1) the amount of all special taxes collected;

(2) a list of all licenses issued and the amount of license fees collected;

(3) a list of all certificates issued for location of private oyster beds, the date of the certificate and application, when and how the applications were executed, and the manner in which the bottoms were examined and the amount of rent collected for the location;

(4) all stock fish furnished, to whom the fish were furnished, and the cost of the stock fish;

(5) all streams, lakes, or ponds stocked and the number and kinds of fish stocked in each; and

(6) all collections and disbursements of the department.

(b) The department shall keep an account with each person, firm, or corporation holding certificates for the location of private oyster beds, showing the amounts received as rents.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975.

Sec. 12.004. LIST OF FEES AND FINES. (a) Repealed by Acts 1997, 75th Leg., ch. 1256, Sec. 130, eff. Sept. 1, 1997.

(b) The department shall file at the end of each calendar month a written report with the comptroller showing fines, licenses, and other fees collected, their disposition, and any other necessary information.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1997, 75th Leg., ch. 1256, Sec. 130, eff. Sept. 1, 1997.

Sec. 12.005. FUNDS IN LIEU OF TAXES. (a) The department shall expend funds to counties and school districts for assessments in lieu of property taxes on wildlife management areas purchased from federal funds or grants authorized by the Pittman-Robertson Act or Dingell-Johnson Act.

(b) No general revenue funds may be expended in lieu of taxes for wildlife management areas; however, special funds may be expended for this purpose provided reimbursement or matching from the federal government is available at a federal ratio of two to one or better.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975.

Sec. 12.006. PUBLICATIONS ON WILDLIFE VALUES AND MANAGEMENT. (a) The department may provide or sell information, including books, magazines, photographs, prints, and bulletins, to the public about wildlife values and management.

(b) The department may receive royalties on department-owned materials that are sold or supplied to others by the department for publication.

(c) The department may enter into contractual agreements for publication of information concerning wildlife values and management.

(d) Money received under this section shall be deposited in the State Treasury to the credit of the fund or account from which expenses for the publication were paid.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 24, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 679, Sec. 9, eff. Sept. 1, 1993.

Sec. 12.007. VOLUNTARY CONTRIBUTION TO FUND FOR VETERANS' ASSISTANCE. (a) In this section, "veterans fund" means the fund for veterans' assistance established under Section 434.017, Government Code.

(b) When a person applies for a hunting or fishing license of any type, including a combination hunting and fishing license,

under this code, the person may make a voluntary contribution of $1, $5, $10, or $20 to the veterans fund.

(c) The department shall:

(1) include space on the first page of each application for a hunting or fishing license that allows a person applying for the license to indicate that the person is voluntarily contributing $1, $5, $10, or $20 to the veterans fund; and

(2) provide an opportunity for the person to contribute $1, $5, $10, or $20 to the veterans fund during the application process for a hunting or fishing license on the department's Internet website.

(d) The department shall send any contribution made under this section to the comptroller for deposit in the state treasury to the credit of the fund for veterans' assistance not later than the 14th day of each month. Before sending the money to the veterans fund, the department may deduct money equal to the amount of reasonable expenses for developing and administering this section.
Added by Acts 2015, 84th Leg., R.S., Ch. 160 (H.B. 1584), Sec. 2, eff. September 1, 2015.

Sec. 12.0075. ORGAN DONOR REGISTRY INFORMATION. The department shall add on the department's Internet website a link to the Glenda Dawson Donate Life-Texas Registry operated under Chapter 692A, Health and Safety Code, for persons to access when applying on the department's Internet website for a hunting or fishing license, including a combination hunting and fishing license.
Added by Acts 2019, 86th Leg., R.S., Ch. 725 (H.B. 406), Sec. 1, eff. September 1, 2019.

Sec. 12.008. LEASING OF GRAZING OR FARMING RIGHTS: SALE OF PRODUCTS. (a) The department may lease grazing or farming rights on any land acquired by, and for the use of, the department as game preserves, game sanctuaries, and game management areas. The department may harvest and sell, or sell in place, any timber, hay, or other product grown on land of the department when the product is found to be in excess of wildlife management needs.

(b) The department may agree to accept consideration in lieu

of money as part or full payment for a sale or lease under this section. The consideration in lieu of money must be materials, supplies, or services that are needed for wildlife management projects on any game management area administered by the department. The materials, supplies, or services accepted in lieu of money may be assigned a value no greater than that which the department would have been authorized to pay for them in a bona fide purchase.

(c) The comptroller shall execute any sale of products under this section under the general law governing the sale of state property; however, the department shall determine the quantity of products to be offered for sale and the consideration in lieu of money to be received under the sale. The department may lease grazing or farming rights under this section. In leasing the rights, the department must follow a competitive bidding procedure.

(d) All money derived from a sale or lease under this section shall be deposited in the state treasury to the credit of the game, fish, and water safety account.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 549, ch. 260, art. 3, Sec. 1, eff. Sept. 1, 1979; Acts 1983, 68th Leg., p. 2885, ch. 491, Sec. 1, eff. Aug. 29, 1983; Acts 1991, 72nd Leg., ch. 475, Sec. 1, 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 679, Sec. 10, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.106, eff. September 1, 2007.

Sec. 12.010. NUISANCE OR NOXIOUS AQUATIC VEGETATION PROGRAM. (a) The department may implement a program to control or eradicate nuisance aquatic vegetation, including hydrilla and giant sylvania, from public water in this state.

(b) To implement the program under this section, the department may use money from unclaimed refunds of the tax on fuel used in motorboats appropriated to the department under Section 162.502(c), Tax Code.

(c) The department may contract with a person not employed

by the department or use the services of department personnel for the control or eradication of nuisance or noxious vegetation in the water of this state.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975.

Amended by Acts 1997, 75th Leg., ch. 1256, Sec. 8, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 19, eff. June 15, 2007.

Sec. 12.011. TEACHING EQUIPMENT. On request of a state-supported institution of higher education engaged in teaching and research related to marine science and oceanography, the department may transfer to the institution fish nets, seines, motors, boats, and other marine equipment confiscated under the authority of the game and fish laws to be used in the teaching and research programs of the institution.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975.

Sec. 12.012. RECREATIONAL WATER SAFETY VIDEO. (a) The department shall produce a video suitable for use with high school students on recreational water safety. The video must include instruction on safe participation in recreational activities in, on, or around the lakes, rivers, and coastal waters of this state.

(b) The department shall notify the Texas Education Agency in writing when the recreational water safety video is available for the agency's use.

(c) The department may edit the content of the recreational water safety video to produce a boater education video that complies with federal standards for boating education courses published by the National Association of State Boating Law Administrators.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1275 (H.B. 673), Sec. 1, eff. June 17, 2011.

Sec. 12.013. POWER TO TAKE WILDLIFE; FISH. (a) An employee of the department acting within the scope of the employee's

authority may possess, take, transport, release, and manage any of the wildlife and fish in this state for public safety, investigation, propagation, distribution, education, disease diagnosis or prevention, or scientific purposes.

(b) A person who is not an employee of the department who is participating under the supervision of a department employee in a program or event designated by the director as being conducted for research or species propagation and as exempt from the normally applicable size or bag limits may possess, take, transport, or release any fish in this state to accomplish the intent of the program or event.

(c) An employee of the department acting within the scope of the employee's authority may discharge a firearm to take wildlife on a public road or right-of-way if the wildlife is:

(1) mortally injured; or

(2) behaving in a manner consistent with the wildlife being diseased.

(d) Except as provided by Subsection (e), a person or agent of the person may take wildlife on the person's property if the person:

(1) has written authorization from the department; and

(2) is participating under the supervision of a department employee in a program or event designated by the director as being conducted for the diagnosis, management, or prevention of a disease in wildlife.

(e) Subsection (d) does not apply to a person or agent who is a department employee.

(f) The commission may adopt rules to implement this section.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1997, 75th Leg., ch. 1256, Sec. 9, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 992 (H.B. 2026), Sec. 2, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 20, eff. September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 188 (H.B. 3065), Sec. 1, eff. September 1, 2023.

Sec. 12.014. NOTICE OF WILDLIFE DISEASE OUTBREAK. (a) Notwithstanding any law restricting the disclosure of information by the department and subject to Subsection (b), if the department becomes aware of a wildlife disease outbreak on a property, the department shall provide notice of the location and nature of the outbreak to:

(1) each owner of adjacent property; and

(2) the Texas Animal Health Commission.

(b) Subsection (a) applies only to a disease that the Texas Animal Health Commission has designated as reportable.

Added by Acts 2023, 88th Leg., R.S., Ch. 247 (S.B. 811), Sec. 3, eff. May 27, 2023.

Sec. 12.015. REGULATION OF FISH, SHELLFISH, AND AQUATIC PLANTS. The department shall regulate the introduction and stocking of fish, shellfish, and aquatic plants into the public water of the state.

Added by Acts 1975, 64th Leg., p. 1219, ch. 456, Sec. 17, eff. Sept. 1, 1975. Amended by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 110, eff. Sept. 1, 1985; Acts 1989, 71st Leg., ch. 637, Sec. 7, eff. Sept. 1, 1989.

Sec. 12.017. DAMAGING MARKERS. (a) No person may damage, deface, destroy, or remove, tie up a boat to, or in any way render inoperative or ineffective a marker, buoy, light or sound signal, radar reflector, or daymark or any part of these devices, including the attachment intended to hold the device in place.

(b) The fact that a device or part of a device specified in Subsection (a) of this section may have been established by the state in water adjacent to but outside the territorial water of the state is not a defense against a prosecution for damaging state property.

Added by Acts 1977, 65th Leg., p. 1126, ch. 421, Sec. 2, eff. Aug. 29, 1977. Amended by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 2,

eff. Sept. 1, 1985.

Sec. 12.018. ACCEPTANCE AND DISPOSITION OF GIFTS. (a) The department may accept a gift or donation from any person for the purpose of funding any program or function of the department relating to wildlife conservation.

(b) A gift or donation other than money accepted under this section may be auctioned off or used as a prize in conjunction with a fund-raising program or event. All proceeds of the auction or fund-raising program or event shall be used by the department for the purposes described by this section.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 25, eff. Sept. 1, 1985.

Sec. 12.019. PENALTIES. (a) Except as provided by Subsection (b) of this section, a person who violates Section 12.015, 12.017, or 12.504 of this code or a regulation adopted under Section 12.015 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) If it is shown at the trial of the defendant for a violation of Section 12.017 of this code that he has been convicted within five years before the trial date of a violation of that section, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

(c) A person who violates Section 12.505 of this code commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 3, eff. Sept. 1, 1985.

Sec. 12.024. WATER PERMIT RESPONSIBILITIES. (a) The Texas Department of Water Resources shall furnish to the department a copy of all permit applications to store, take, or divert water.

(b) The department shall make recommendations to the Texas Department of Water Resources to protect fish and wildlife resources, including permit conditions, mitigation, and schedules of flow or releases.

(c) The department shall be, on its request, a full party in any hearing on an application for a permit to store, take, or divert water.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 29, eff. Sept. 1, 1985.

Sec. 12.025. TECHNICAL GUIDANCE TO LANDOWNERS. (a) The department may provide technical guidance to landowners who request information concerning fish, wildlife, nongame, and habitat management.

(b) In setting priorities for the provision of money to a landowner under this section, the department shall consider:

(1) the inventory developed under Section 11.103; and

(2) the priorities set under Section 11.105.

(c) The department shall support landowner education programs and cooperate with appropriate state agencies.

(d) The department shall provide notice of Section 12.0251 to a private landowner who requests technical assistance before entering the property to collect and record information about animal or plant life.

(e) The commission by rule shall adopt policies, including written guidelines for a method for providing notice under Subsection (d) and for departmental entry onto privately owned land to collect information described by Section 12.0251(a). The policies and guidelines must identify the maximum information that the department may maintain under Section 12.0251.

(f) A review or update of a record or plan produced by the department under Section 12.0251 and maintained by the landowner or the landowner's agent may be requested by the landowner or the department.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 30, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 519, Sec. 2, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 968, Sec. 28, eff. Sept. 1, 2001.

Sec. 12.0251. DISCLOSURE OF INFORMATION COLLECTED DURING TECHNICAL GUIDANCE TO PRIVATE LANDOWNER. (a) Except as provided by

this section, information is not subject to Chapter 552, Government Code, and may not be disclosed to any person, including a state or federal agency, if the information is collected by the department in response to a landowner request relating to the specific location, species identification, or quantity of any animal or plant life that is:

(1) protected by this code; and

(2) located on private land that:

(A) is subject to a wildlife management plan developed cooperatively with the department for private land; or

(B) is the subject of a recommendation report prepared by the department for the landowner.

(b) The commission or the department may disclose information described by this section only to:

(1) the landowner;

(2) another person if the landowner consents to full or specified partial disclosure of information and the consent is in writing and is attached to the plan or recommendation report; or

(3) the Texas Animal Health Commission as needed to carry out a governmental purpose.

(c) The department may release game census, harvest, habitat, or program information only if the information is summarized in a manner that prevents the identification of an individual or specific parcel of land and the landowner.

(d) The department may prepare not more than one original record of the information collected by the department and incorporated into a wildlife management plan, and the record becomes the property of the landowner. The department may retain one copy of the record. The retained copy may not be disclosed except as provided by this section.

(e) Except as provided by this subsection, the department shall send a copy of the information retained by the department relating to a landowner's property to the landowner and destroy the department's record of the information if the protected information status assigned by this section is revoked. The department may retain a copy of the information if the landowner consents in writing.

(f) In this section, a reference to the department includes a reference to an agent of the department.

(g) This section does not apply to a parcel of land that is not privately owned.

Added by Acts 1995, 74th Leg., ch. 519, Sec. 3, eff. Aug. 28, 1995.

Amended by Acts 2001, 77th Leg., ch. 968, Sec. 29, eff. Sept. 1, 2001.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 247 (S.B. 811), Sec. 4, eff. May 27, 2023.

Sec. 12.026. MULTIPLE USE OF LAND. A tract of land purchased primarily for a purpose authorized by this code may be used for any authorized function of the department if the commission determines that multiple use is the best utilization of the land's resources.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 31, eff. Sept. 1, 1985.

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

Added by Acts 1989, 71st Leg., ch. 924, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 952 (H.B. 3391), Sec. 8, eff. September 1, 2009.

Sec. 12.028. POWERS AND DUTIES REGARDING TEXAS WATER TRUST. (a) In this section, "Texas Water Trust" means the trust established under Section 15.7031, Water Code.

(b) Consistent with Section 11.0235(b), Water Code, and the department's duties and responsibilities, the department shall encourage and facilitate the dedication of water rights in the Texas Water Trust through lease, donation, purchase, or other means of voluntary transfer for environmental needs, including for the purpose of maintaining or improving:

(1) instream flows;

(2) water quality;

(3) fish and wildlife habitat; and

(4) bay and estuary inflows.

(c) The department may manage rights in the Texas Water Trust in a manner that is consistent with:

(1) the manner in which a holder of the rights may manage the rights;

(2) the dedication of the rights, including the dedication's terms and conditions;

(3) Sections 11.0237, 11.027, and 11.122, Water Code; and

(4) maximizing environmental benefits.

(d) This section may not be construed to authorize the department to exercise any authority expressly granted to the Texas Water Development Board or the Texas Commission on Environmental Quality under Subchapter K, Chapter 15, Water Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 689 (H.B. 2225), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. ENFORCEMENT POWERS

Sec. 12.101. DEFINITIONS. In this subchapter:

(1) "Aircraft" means a device, including an airplane, ultralight airplane, or helicopter, that can be used for flight in the air.

(2) "Contraband" means:

(A) an aircraft, vehicle, firearm, or other device used to commit a violation of Subchapter G, Chapter 43, of this code or a regulation of the commission adopted under that subchapter;

(B) a vessel that is not documented by the United States Coast Guard or registered as provided by Chapter 31 and that is used to commit an offense under Section 66.006 of this code;

(C) equipment, including a vessel, seized as provided by Section 66.2011 of this code; or

(D) any aircraft or vessel used to commit a second or subsequent offense under Section 61.022, 62.003, 62.004, or 62.005.

(3) "Vessel" means watercraft, including an attached motor, that can be used for transportation on water.

Added by Acts 1995, 74th Leg., ch. 966, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1999.

Sec. 12.102. INSPECTION OF WILDLIFE RESOURCES. (a) In this section:

(1) "Residence" means a person's principal or ordinary home or dwelling place.

(2) "Temporary residence" means a place where a person temporarily dwells or seeks shelter. The term does not include a hunting blind. The term does include a:

(A) hunting club or lodge;

(B) clubhouse;

(C) cabin;

(D) tent;

(E) manufactured home used as a hunting club or lodge; and

(F) hotel room, motel room, or room in a boardinghouse used during a hunting trip.

(3) "Wildlife resource" means any animal, bird, reptile, amphibian, fish, or form of aquatic life or any part of an animal, bird, reptile, amphibian, fish, or form of aquatic life the hunting, catching, or possession of which is regulated by this code.

(b) Except as provided by Subsection (d), a game warden or other peace officer commissioned by the department who observes a person engaged in an activity regulated by this code or under the

jurisdiction of the commission or reasonably believes that a person is or has been engaged in an activity regulated by this code or under the jurisdiction of the commission may inspect:

(1) any license, permit, tag, or other document issued by the department and required by this code of a person hunting or catching wildlife resources;

(2) any device that may be used to hunt or catch a wildlife resource;

(3) any wildlife resource in the person's possession; and

(4) the contents of any container or receptacle that is commonly used to store or conceal a wildlife resource.

(c) Except as provided by Subsection (d), a game warden or other peace officer commissioned by the department may inspect any wildlife resource that has been taken by a person and is in plain view of the game warden or other peace officer.

(d) Nothing in this section authorizes a game warden or other peace officer commissioned by the department to conduct a search otherwise authorized by this section:

(1) in a person's residence or temporary residence; or

(2) on a publicly maintained road or way that is:

(A) improved, designed, or ordinarily used for vehicular traffic;

(B) open to the public; and

(C) distinguishable from a shoulder, berm, or other area not intended for vehicular traffic.

Added by Acts 2003, 78th Leg., ch. 558, Sec. 1, eff. Sept. 1, 2003.

Sec. 12.1025. RISK-BASED INSPECTIONS OF NONRECREATIONAL AUTHORIZATION HOLDERS. (a) In this section, "nonrecreational authorization holder" means a holder of a license, permit, or other authorization required by this code or rules adopted under this code. The term does not include a holder of:

(1) a hunting license issued under Chapter 42;

(2) a hunting or fishing stamp issued under Chapter 43;

(3) a fishing license issued under Chapter 46; or

(4) a combination hunting and fishing license issued under Chapter 50.

(b) The commission by rule shall adopt a policy to guide the prioritization of inspections of nonrecreational authorization holders based on risk to the state's natural resources.

(c) The policy adopted under this section must require that the department:

(1) identify the nonrecreational authorization holders that require on-site inspections;

(2) develop an assessment tool for determining the appropriate frequency and intensity of department inspections of nonrecreational authorization holders, based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and

(3) document all inspections of nonrecreational authorization holders and the results of those inspections and make the documentation available to all employees whose job descriptions include the regulation of nonrecreational authorization holders.

Added by Acts 2021, 87th Leg., R.S., Ch. 182 (S.B. 700), Sec. 6, eff. September 1, 2021.

Sec. 12.103. ENTERING LAND; USE OF INFORMATION OBTAINED BY ENTRY; CIVIL PENALTY. (a) To enforce the game and fish laws of the state and to conduct scientific investigations and research regarding wild game or fish, an authorized employee of the department may enter on any land or water where wild game or fish are known to range or stray. No action may be sustained against an employee of the department to prevent his entering on land or water when acting in his official capacity as described by this subsection.

(b) Except as provided by Subsection (d) or (d-1), the department may use information collected by an employee of the department on privately owned land only for the purposes of scientific investigations and research described in Subsection (a) and only if authorized in writing by the landowner or the landowner's agent. Unless the department first obtains the written consent of the landowner or the landowner's agent, the

department may not:

(1) use other incidental information obtained on the land that does not pertain directly to the investigation or research authorized under Subsection (a); or

(2) enter or permit the entry of any information that does not pertain directly to the investigation or research authorized under Subsection (a), into a database:

(A) maintained by the department and available to a person other than a department employee;

(B) maintained by a natural heritage program administered by the department; or

(C) established and maintained by any other person.

(c) Except as provided by Subsection (d) or (d-1), information collected under this section may only be reported or compiled in a manner that prevents the identification of an individual parcel or specific parcels of private property without the written consent of the landowner or the landowner's agent.

(d) The department may collect and enter data as necessary relating to the occurrence or harvest of natural resources in public land or water. The department may collect and report standardized annual wildlife survey information required by the Pitman-Robertson Wildlife Restoration Act (16 U.S.C. Section 669 et seq.).

(d-1) The department may disclose information collected under this section to the Texas Animal Health Commission as needed to carry out a governmental purpose.

(e) The department is liable to a private landowner for a civil penalty in the amount of $1,000 for a violation of this section involving information collected by an employee of the department on the landowner's property. A landowner may bring suit to collect the penalty in the county in which the land is located or the county in which the landowner resides.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975.
Amended by Acts 1995, 74th Leg., ch. 521, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 247 (S.B. 811), Sec. 5, eff. May 27, 2023.

Sec. 12.104. RIGHT TO SEARCH AND INSPECT. (a) A game warden or other peace officer commissioned by the department may search a game bag, vehicle, vessel, or other receptacle if the game warden or peace officer has a reasonable, articulable suspicion that the game bag, vehicle, vessel, or receptacle contains a wildlife resource that has been unlawfully killed or taken.

(b) A game warden or other peace officer commissioned by the department may inspect a wildlife resource or a part or product of a wildlife resource that is discovered during a search under Subsection (a) of this section.

(c) In this section "wildlife resource" means an animal, bird, reptile, amphibian, fish, or other aquatic life the taking or possession of which is regulated in any manner by this code.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1991, 72nd Leg., ch. 261, Sec. 1, eff. Aug. 26, 1991.

Sec. 12.105. SUITS. (a) The department may file complaints in the name of the State of Texas to recover fines and penalties for violations of the laws relating to game, birds, and fish.

(b) The department may file a complaint and commence proceedings against an individual for violation of the laws relating to game, birds, and fish without the approval of the county attorney of the county in which the proceedings are brought. The department is not required to furnish security for costs for proceedings under this subsection.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975.

Sec. 12.106. NOTICE TO APPEAR. (a) Any peace officer of this state or a political subdivision of this state or an authorized employee of the department who arrests a person for a violation of this code or a regulation of the commission adopted under this code may deliver to the alleged violator a written notice to appear before the justice court, county court, or another court having

jurisdiction of the offense not later than 15 days after the date of the alleged violation.

(b) On signing the written notice to appear and thereby promising to appear as provided in the notice, the alleged violator shall be released.

(c) A person who fails to appear for a violation of this code or a regulation of the commission adopted under this code within the time specified in the written notice commits an offense that is a Class C Parks and Wildlife Code misdemeanor, and a warrant for the arrest of the alleged violator may be issued.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 4, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 338, Sec. 1, eff. Sept. 1, 1993.

Sec. 12.107. REMISSION OF FINES. (a) A justice of the peace, clerk of any court, or any other officer of the state who receives a fine imposed by a court for a violation of this code or a regulation of the commission adopted under this code shall send the fine to the department within 10 days after the date of collection. A statement containing the docket number of the case, the name of the person fined, and the section of this code or the regulation violated must accompany the remission of the fine.

(b) The amount of the fine to be remitted to the department is 80 percent in county court or higher court cases and 85 percent in justice court cases.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1985, 69th Leg., ch. 269, Sec. 4, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 338, Sec. 2, eff. Sept. 1, 1993.

Sec. 12.108. EXPENSES. In making an arrest, summoning a witness, and serving a process, the department is entitled to the same fee and mileage allowance as a sheriff. The fee is charged and collected in the same manner as sheriff's fees.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975.

Sec. 12.109. CONFISCATION AND DISPOSITION OF AQUATIC PRODUCTS. (a) Except as provided by Subsection (c) or (f) of this

section, when an enforcement officer of the department believes that a person has unlawful possession of any fish, oysters, shrimp, or other aquatic products as defined by Section 47.001(16) of this code, taken in violation of this code or a proclamation of the commission adopted under this code, he shall seize the aquatic products and all aquatic products aboard any vessel involved, or in any device used to catch or store aquatic products, whether in storage or on deck, and whether alive or dead, frozen or fresh, whole or processed to any extent. The officer shall sell the aquatic products and dispose of the proceeds as provided in Subsection (b) of this section.

(b) The confiscated aquatic products shall be sold to the highest of three bidders. The proceeds of the sale shall be deposited in the state treasury to the credit of the appropriate suspense fund pending the outcome of the action taken against the person charged with illegal possession. The officer shall give to the person a receipt for all aquatic products seized upon the sale of the aquatic products. If bids cannot be obtained, the department, if practicable, shall donate the aquatic products to a charitable institution, hospital, or other person. To the extent practicable, Subtitle A, Title 6, Health and Safety Code, applies to an aquatic product sold under this subsection that is intended for sale and use as human food.

(c) If aquatic products are seized due only to a violation of a daily bag or possession limit, the officer shall allow the person in possession to retain a lawful quantity of the aquatic products, but only if the person gives written acknowledgement of retention of a lawful quantity to the officer on a form provided by the department. The officer shall sell the remainder of the aquatic products and dispose of the proceeds as provided by Subsection (b) of this section.

(d) 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 or another law requiring that, as a condition of release, the defendant subsequently appear before a court to answer for the offense, all the proceeds shall be transferred to the credit of the game, fish,

and water safety account. 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, the department shall pay the proceeds of the sale to the person from whom the aquatic products were seized.

(e) This section does not apply to fish, shrimp, or other aquatic products that are taken from an area declared by the Commissioner of Health to be a prohibited area.

(f) If an enforcement officer of the department determines that a person is in possession of oysters that were taken unlawfully, the officer may direct, if practical, that the oysters be returned to a public reef.

(g) The department and an enforcement officer of the department who acts under this section are not liable in any civil action for the seizure, sale, release, or donation of aquatic products or for the order to return oysters to a public reef.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1214, ch. 456, Sec. 13(k), eff. Sept. 1, 1975. Acts 1985, 69th Leg., ch. 433, Sec. 7, eff. June 11, 1985; Acts 1987, 70th Leg., ch. 611, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 338, Sec. 3, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 679, Sec. 11, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 454, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 325 (H.B. 1818), Sec. 1, eff. September 1, 2013.

Sec. 12.110. DISPOSITION OF CONFISCATED GAME. (a) Except as provided by Subsection (d), the department shall donate, whenever donation is reasonably practicable, any wild game animal, bird, fowl, game fish, or exotic animal that is unlawfully killed, taken, shipped, held in storage, possessed, or offered for sale in a public eating place to a charitable institution, hospital, or person or persons.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(34), eff. January 1, 2020.

(c) The department and an enforcement officer of the

department who acts under this section are not liable in any civil action for the seizure, sale, or donation of a game bird, other fowl, animal, game fish, or exotic animal.

(d) The department may sell confiscated live game described by Subsection (a) to the highest of three bidders. At the time of a sale under this subsection, the department shall provide the buyer a receipt for all game sold to the buyer. The department shall 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). 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, the department shall pay the proceeds of the sale to the person from whom the game was seized.

(e) This section does not apply to the lawful possession or sale of an exotic animal.

(f) In this section, "exotic animal" has the meaning assigned by Section 62.015.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 33, ch. 16, Sec. 1, eff. March 16, 1977; Acts 1993, 73rd Leg., ch. 338, Sec. 4, eff. Sept. 1, 1993. Amended by:

Acts 2005, 79th Leg., Ch. 992 (H.B. 2026), Sec. 3, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 325 (H.B. 1818), Sec. 2, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.37, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(34), eff. January 1, 2020.

Sec. 12.1101. SEIZURE AND DISPOSAL OF CERTAIN ANIMALS' PELTS AND CARCASSES. (a) A game warden or authorized employee of the department may 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 commission.

(b) The department may sell a confiscated fur-bearing animal, pelt, or carcass to the highest of three bidders. At the time of a sale under this subsection, the department shall provide the buyer a receipt for all fur-bearing animals, pelts, or carcasses sold to the buyer. The department shall 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). 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, the department shall transfer the proceeds of the sale to the credit of the game, fish, and water safety account. 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, the department shall pay the proceeds of the sale to the person from whom the items were seized.

(c) A game warden or authorized employee of the department acting under the authority of this section is immune from liability and from suit for the seizure of items under this section.

(d) To the extent practicable, Subtitle A, Title 6, Health and Safety Code, applies to an animal or animal part sold under this section that is intended for sale and use as human food.

Added by Acts 1977, 65th Leg., p. 82, ch. 39, Sec. 1, eff. March 30, 1977. Amended by Acts 1979, 66th Leg., p. 549, ch. 260, art. 1, Sec. 6, eff. Sept. 1, 1979.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 325 (H.B. 1818), Sec. 3, eff. September 1, 2013.

Sec. 12.1104. REMOVAL AND DISPOSAL OF ABANDONED FISHING DEVICE. (a) In this section, "abandoned fishing device" means an unattended fishing device located in the public water of this state that is placed in violation of a provision of this code or commission rule.

(b) An abandoned fishing device is litter for purposes of Section 365.011, Health and Safety Code, and is subject to immediate removal and disposal. Except as provided by Subsection (e), an abandoned fishing device must be disposed of in compliance with the Health and Safety Code.

(c) The commission may adopt rules to govern the removal and disposal of abandoned fishing devices as necessary to enhance:

(1) enforcement of this section;

(2) the cleanliness of the beds and bottoms of the public water of this state;

(3) boating safety; and

(4) the conservation and management of aquatic resources.

(d) A game warden or other peace officer is immune from liability and from suit for the removal or disposal of an abandoned fishing device under this section.

(e) On request of an authorized representative of a unit of The University of Texas System, The Texas A&M University System, or the Texas State University System engaged in teaching and research related to marine science and oceanography, the department may transfer an abandoned fishing device removed under this section to the unit for use in the unit's teaching or research programs.

Added by Acts 2021, 87th Leg., R.S., Ch. 34 (S.B. 599), Sec. 1, eff. September 1, 2021.

Sec. 12.1105. SEIZURE AND DISPOSITION OF UNLAWFUL FISHING DEVICES. (a) When a game warden or other peace officer finds in or on the public water of the state a seine, net, trawl, trap, or other device that is in or on the water in violation of a provision of this code or in violation of a lawful regulation of the commission or is aboard a vessel in violation of a provision of this code or a lawful regulation of the commission, the warden or other peace officer shall seize without a warrant the seine, net, trawl, trap, or device.

(b) When an alleged violator is charged with an offense in connection with the unlawful use or possession of the seine, net, trawl, trap, or device seized by the warden or other peace officer,

the warden or other peace officer shall hold the seine, net, trawl, trap, or device as evidence. Except as provided in Subsection (e) of this section, on a final conviction for the offense of the alleged violator, including a final judgment arising from a plea of nolo contendere, the warden or other peace officer shall destroy the seine, net, trawl, trap, or device. If the alleged violator is not guilty of the offense or if the charge is not prosecuted and dismissed, the seine, net, trawl, trap, or device shall be returned to the owner.

(c) Repealed by Acts 2021, 87th Leg., R.S., Ch. 34 (S.B. 599), Sec. 4, eff. September 1, 2021.

(d) A game warden or other peace officer who seizes items under this section is immune from liability and from suit for a seizure or destruction of a seine, net, trawl, trap, or other device as authorized by Subsection (b).

(e) The Parks and Wildlife Department, when requested by authorized representatives of units of The University of Texas System, The Texas A&M University System, and the Texas State University System engaged in teaching and research related to marine science and oceanography, may transfer to such units of said universities and university systems nets, seines, and other marine equipment, which have been seized under this section, to be used in carrying out the teaching and research programs within said institutions.

Added by Acts 1977, 65th Leg., p. 381, ch. 190, Sec. 3, eff. May 20, 1977. Amended by Acts 1991, 72nd Leg., ch. 781, Sec. 1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 1061, Sec. 10, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 227, Sec. 7, eff. May 23, 1997; Acts 1999, 76th Leg., ch. 851, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 34 (S.B. 599), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 34 (S.B. 599), Sec. 4, eff. September 1, 2021.

Sec. 12.1106. SEIZURE AND DISPOSITION OF CONTRABAND; IMMUNITY. (a) A game warden or other peace officer who has

probable cause to believe property is contraband may seize the property without a warrant.

(b) The warden or officer shall give notice of the seizure, including a description of the seized property and the location and date of seizure, to the county judge or a judge of a county court at law, justice court, or district court of the county where the seizure occurred:

(1) when a person pleads guilty or nolo contendere to, is convicted of, or is placed on deferred adjudication for:

(A) an offense under Section 66.006, Section 66.2011, or Subchapter G, Chapter 43, of this code; or

(B) a second or subsequent offense under Section 61.022, 62.003, 62.004, or 62.005 of this code; or

(2) if no person is arrested for an offense immediately after the warden or officer seizes the property.

(c) The court shall direct the sheriff or a constable to post a copy of the notice in the county courthouse for not less than 10 days. At the expiration of 10 days, the court shall hold a hearing to determine if the seized property is contraband.

(d) The court shall order the seized property:

(1) forfeited to the department if the court determines by a preponderance of the evidence that:

(A) the seized property is contraband and a person pleaded guilty or nolo contendere to, was convicted of, or was placed on deferred adjudication for:

(i) an offense under Section 66.006, Section 66.2011, or Subchapter G, Chapter 43, of this code; or

(ii) a second or subsequent offense under Section 61.022, 62.003, 62.004, or 62.005 of this code; or

(B) the seized property is contraband and no person was arrested for an offense immediately after the warden or officer seized the property; or

(2) released to the owner if:

(A) the person charged with an offense under Section 66.006, Section 66.2011, or Subchapter G, Chapter 43, of this code or a second or subsequent offense under Section 61.022, 62.003, 62.004, or 62.005 of this code is acquitted or the charge is

dismissed; or

(B) the court determines that the seized property is not contraband.

(e) If the department receives a forfeiture order from a court as authorized by this section, the department may:

(1) use the seized property in its normal operations;

(2) sell or transfer the property; or

(3) destroy the property.

(f) A warden or officer who seizes property under this section is immune from liability and from suit for a seizure and disposition of property as authorized by this section.

(g) The commission may adopt rules to implement this section.

(h) The department shall deposit money received under this section in the state treasury to the credit of the game, fish, and water safety account.

Added by Acts 1991, 72nd Leg., ch. 808, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 12, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 966, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 851, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 959, Sec. 2, eff. Sept. 1, 1999.

Sec. 12.113. COASTAL SURVEY CHARTS ADMISSIBLE. In any prosecution under this code, United States Coastal Survey Charts are admissible.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975.

Sec. 12.114. DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE REQUIRED. (a) A person who is 17 years of age or older and who has a license or permit issued under this code or who is engaging in an activity that requires a license or permit shall have a driver's license or personal identification certificate in the person's immediate possession.

(b) If the person is a resident as defined by Subdivision (1) of Section 42.001 of this code, "driver's license" and "personal identification certificate" have the meanings assigned by Chapter 521, Transportation Code.

(c) If the person is a nonresident as defined by Section 42.001, "driver's license" and "personal identification certificate" mean those documents that are similar to those defined in Subsection (b) and that are issued by the agency in the state or country of which the person is a resident that is authorized to issue driver's licenses or personal identification certificates.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 32, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.232, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1256, Sec. 10, eff. Sept. 1, 1997.

Sec. 12.115. OFFENSE. (a) A person who is arrested for an alleged violation of this code or a proclamation or regulation adopted under this code commits an offense if the person:

(1) does not have in his immediate possession a driver's license or personal identification certificate required by Section 12.114 of this code; or

(2) fails or refuses to display the driver's license or personal identification certificate required by Section 12.114 of this code when requested to do so by any peace officer, game warden, magistrate, or officer of a court of competent jurisdiction.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 32, eff. Sept. 1, 1985.

Sec. 12.116. JUSTICE COURT TO PROVIDE AFFIDAVITS CERTIFYING CERTAIN CONVICTIONS. (a) If a person is convicted in justice court for violating a provision of this code or a proclamation or regulation adopted under this code that provides enhanced penalties for subsequent convictions, the court on request shall submit to the department an affidavit certifying the conviction. The affidavit must include the driver's license number or personal identification certificate number obtained from the violator.

(b) The affidavit certifying the conviction, if admissible under the Texas Rules of Evidence, is available in subsequent prosecutions of that person for violations of the section,

proclamation, or regulation under which the prior conviction was obtained.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 32, eff. Sept. 1, 1985.

Sec. 12.117. JUSTICE COURT TO PROVIDE AFFIDAVITS CERTIFYING CERTAIN CONVICTIONS AND OTHER INFORMATION. (a) If a person is convicted in a justice court for violating a provision of this code or a proclamation or regulation adopted under this code that provides enhanced penalties for subsequent convictions, the court on request shall submit to the department an affidavit certifying the conviction. Along with such affidavit the court shall also compile and send to the department the defendant's driver's license number and copies of any photograph, picture, description, or measurement of the defendant made by any law enforcement agency in connection with the offense.

(b) A certified copy of such affidavit and documents pursuant to Subsection (a) of this section is admissible as evidence in a criminal proceeding to prove that a particular person was convicted of the offense to which the documents pertain if the court finds that 15 days before trial, the party against whom the evidence is offered was provided a copy of the document offered as evidence.

Added by Acts 1985, 69th Leg., ch. 827, Sec. 10, eff. Aug. 26, 1985.

Amended by Acts 1987, 70th Leg., ch. 218, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 18.001, eff. September 1, 2009.

Sec. 12.119. VIOLATION OF COMMISSION RULE ON POSSESSION OF LICENSE; PENALTY. (a) A person commits an offense if the person violates a rule adopted by the commission relating to possessing a license or stamp otherwise required by this code for hunting wildlife resources or for catching aquatic life.

(b) An offense under this section is a Class C Parks and Wildlife misdemeanor.

Added by Acts 1995, 74th Leg., ch. 931, Sec. 2, eff. June 16, 1995.

SUBCHAPTER C. OPERATION GAME THIEF

Sec. 12.201. CREATION OF FUND. The department may accept and deposit in a special fund outside the state treasury, called the operation game thief fund, donations from any person made for purposes of this subchapter. Funds deposited in the operation game thief fund may be used only for the maintenance of that fund, promotion of the operation game thief program through advertisement and marketing, the development, acquisition, and implementation of technological advancements to facilitate the apprehension and prosecution of persons who violate laws of this state intended to protect the state's natural or cultural resources or the public safety of persons using those natural or cultural resources, and payment of rewards and death benefits authorized by this subchapter. The Operation Game Thief Committee shall adopt rules for the implementation of the operation game thief program and maintenance of the operation game thief fund.

Added by Acts 1981, 67th Leg., p. 3316, ch. 868, Sec. 1, eff. Aug. 31, 1981. Amended by Acts 1987, 70th Leg., ch. 245, Sec. 1, eff. May 28, 1987; Acts 1995, 74th Leg., ch. 244, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 215 (H.B. 2032), Sec. 1, eff. September 1, 2005.

Sec. 12.202. OPERATION GAME THIEF COMMITTEE. (a) The director shall appoint an Operation Game Thief Committee composed of 11 members to administer the operation game thief fund and to make reward payments and death benefit payments from that fund. The director shall appoint persons who are not employees of the department and who have a demonstrated interest in game and fish conservation. The director may consider the recommendations or nominations of any club or association. The director shall designate one of the members as chairman of the committee. The director shall appoint a former committee member to serve as chairman emeritus. The chairman emeritus has the same rights and

duties as any other committee member. The director or an employee designated by the director for that purpose shall serve as secretary to the committee. A member of the committee serves without compensation.

(b) Each member of the committee, including the chairman emeritus, serves a term of six years. The terms of approximately one-third of the members, including the chairman emeritus, expire on January 31 of each odd-numbered year. The director may reappoint members.

(c) The committee shall meet at least one time each calendar year at the department's office in Austin or at a location designated by the chairman of the committee. Four committee members must be present for approval of disbursement of rewards to eligible applicants and death benefit payments to eligible recipients. Except as provided by Subsection (d), if the vote for approval of disbursements of rewards or death benefits results in a tie vote, no action may be taken until the next meeting of the committee.

(d) Repealed by Acts 2003, 78th Leg., ch. 1170, Sec. 29.02.

Added by Acts 1981, 67th Leg., p. 3316, ch. 868, Sec. 1, eff. Aug. 31, 1981. Amended by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 33, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 245, Sec. 2, eff. May 28, 1987; Acts 1991, 72nd Leg., ch. 431, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 631, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 244, Sec. 2, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1170, Sec. 29.01, 29.02, eff. Sept. 1, 2003.

Sec. 12.203. REWARDS; CLAIMS. (a) A person may apply to the committee for a reward to be paid from the operation game thief fund if the person furnishes information leading to the arrest and conviction of a person for a violation of this code or any of the following laws or a regulation adopted under this code or any of the following laws:

(1) Subchapter B, Chapter 365, Health and Safety Code;

(2) Subchapter E, Chapter 191, Natural Resources Code;

(3) Chapter 28 or Section 30.05, 31.03, 31.11, 37.10, 49.06, 49.061, 49.07, or 49.08, Penal Code;

(4) Chapter 160, Tax Code; or

(5) Subchapter E, Chapter 7, or Subchapter D, Chapter 26, Water Code.

(b) The committee may consider claims made at any time before its meeting, but consideration is limited to claims that relate to final convictions.

(c) The committee shall prescribe and furnish the forms on which claims are to be made, including any documentation to be furnished to substantiate the claim.

(d) Repealed by Acts 2005, 79th Leg., Ch. 215, Sec. 3, eff. September 1, 2005.

Added by Acts 1981, 67th Leg., p. 3316, ch. 868, Sec. 1, eff. Aug. 31, 1981. Amended by Acts 1987, 70th Leg., ch. 245, Sec. 3, eff. May 28, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 215 (H.B. 2032), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 215 (H.B. 2032), Sec. 3, eff. September 1, 2005.

Acts 2023, 88th Leg., R.S., Ch. 813 (H.B. 1163), Sec. 12, eff. September 1, 2023.

Sec. 12.204. REWARDS; PAYMENTS. No amount in excess of that on deposit in the operation game thief fund is payable as a reward under this section or as a death benefit payment under Section 12.206 of this code. No reward may be granted to a person, or an immediate family member of a person, who is a peace officer, deputy game warden, prosecutor, employee of the department, or member of the judiciary.

Added by Acts 1981, 67th Leg., p. 3316, ch. 868, Sec. 1, eff. Aug. 31, 1981. Amended by Acts 1983, 68th Leg., p. 123, ch. 29, Sec. 4, eff. April 19, 1983; Acts 1987, 70th Leg., ch. 245, Sec. 4, eff. May 28, 1987; Acts 1993, 73rd Leg., ch. 631, Sec. 2, eff. Sept. 1, 1993.

Sec. 12.205. POWERS OF THE DEPARTMENT. The department may:

(1) provide a toll-free telephone number for use of the public in reporting violations of the game and fish laws to an

office of the department that has employees on duty 24 hours a day; and

(2) establish procedures for voluntary donations to the operation game thief fund to be collected and sent to the department.

Added by Acts 1981, 67th Leg., p. 3316, ch. 868, Sec. 1, eff. Aug. 31, 1981.

Sec. 12.206. PAYMENT OF DEATH BENEFITS. The committee may use the operation game thief fund to supplement any death benefits received by the families of peace officers employed by the department who are killed in the line of duty. The committee shall adopt guidelines for the payment of death benefits under this section.

Added by Acts 1993, 73rd Leg., ch. 631, Sec. 3, eff. Sept. 1, 1993.

SUBCHAPTER D. RECOVERY BY THE STATE FOR VALUE OF FISH, SHELLFISH, REPTILE, AMPHIBIAN, BIRD, OR ANIMAL

Sec. 12.301. LIABILITY FOR VALUE OF FISH, SHELLFISH, REPTILE, AMPHIBIAN, BIRD, OR ANIMAL. A person who kills, catches, takes, possesses, or injures any fish, shellfish, reptile, amphibian, bird, or animal in violation of this code or a proclamation or regulation adopted under this code is liable to the state for the value of each fish, shellfish, reptile, amphibian, bird, or animal unlawfully killed, caught, taken, possessed, or injured.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 34, eff. Sept. 1, 1985.

Sec. 12.302. VALUE OF FISH, SHELLFISH, REPTILE, AMPHIBIAN, BIRD, OR ANIMAL. For purposes of this subchapter and for determining damages under Section 7.109, Water Code, the commission shall adopt rules to establish guidelines for determining the value of injured or destroyed fish, shellfish, reptiles, amphibians, birds, and animals.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 34, eff. Sept.

1, 1985.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 19.001, eff. September 1, 2011.

Sec. 12.303. CIVIL SUIT FOR RECOVERY OF VALUE. (a) The attorney general or the county attorney of the county in which the violation occurred may bring a civil suit under this subchapter in the name of the state to recover the value of each fish, shellfish, reptile, amphibian, bird, or animal unlawfully killed, caught, taken, possessed, or injured.

(b) A suit under this section shall be brought in the county in which the violation occurred, except that the attorney general may bring suit in Travis County.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 34, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 73, Sec. 1, eff. Sept. 1, 1989.

Sec. 12.304. MORE THAN ONE DEFENDANT. If more than one defendant is named in a suit brought under this subchapter, each defendant against whom judgment is rendered is jointly and severally liable for the recovery provided by this subchapter.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 34, eff. Sept. 1, 1985.

Sec. 12.305. RECOVERY OF VALUE IN ADDITION TO FINE. The recovery amount provided by this subchapter is in addition to any fine, forfeiture, penalty, or costs imposed under another law.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 34, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 193, Sec. 1, eff. Sept. 1, 1987.

Sec. 12.306. BOTH CIVIL SUIT AND CRIMINAL PROSECUTION PERMISSIBLE. The pendency or determination of a suit brought under this subchapter or the pendency or determination of a criminal prosecution for the same killing, catching, taking, possession, or injury does not bar the other action.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 34, eff. Sept. 1, 1985.

Sec. 12.307. DISPOSITION OF RECOVERY. (a) Any damages for injury to fish, shellfish, reptiles, amphibians, birds, or animals recovered in a suit brought by the attorney general shall be deposited to the credit of the game, fish, and water safety account.

(b) Fifty percent of any damages for injury to fish, shellfish, reptiles, amphibians, birds, or animals recovered in a suit brought by a county attorney shall be deposited in the general fund of the county. The remainder shall be deposited to the credit of the game, fish, and water safety account.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 34, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 73, Sec. 2, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 679, Sec. 13, eff. Sept. 1, 1993.

Sec. 12.308. CERTAIN COSTS RECOVERABLE. (a) The actual cost of investigation, reasonable attorney's fees, and reasonable expert witness fees incurred by the department in a civil suit under this subchapter may be recovered in addition to damages for the value of any fish, shellfish, reptile, amphibian, bird, or animal unlawfully killed, caught, taken, possessed, or injured.

(b) Any amounts recovered under this section shall be credited to the same operating accounts from which the expenditures occurred.

Added by Acts 2005, 79th Leg., Ch. 992 (H.B. 2026), Sec. 4, eff. June 18, 2005.

SUBCHAPTER E. PUNISHMENTS

Sec. 12.401. APPLICATION. A person adjudged guilty of an offense under this code or a proclamation or regulation adopted under this code shall be punished in accordance with this subchapter and the Code of Criminal Procedure, 1965.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 1, eff. Sept. 1, 1985.

Sec. 12.402. CIVIL PENALTY. This subchapter does not deprive a court of authority conferred by law to forfeit property, suspend or cancel a license or permit, cite for contempt, or impose any other civil penalty. The civil penalty may be included in the sentence.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 1, eff. Sept. 1, 1985.

Sec. 12.403. CLASSIFICATION OF OFFENSES. (a) Offenses are designated as Parks and Wildlife Code misdemeanors or Parks and Wildlife Code felonies.

(b) Misdemeanors are classified according to the relative seriousness of the offense into three categories:

(1) Class A Parks and Wildlife Code misdemeanors;

(2) Class B Parks and Wildlife Code misdemeanors; and

(3) Class C Parks and Wildlife Code misdemeanors.

(c) Section 12.41, Penal Code, does not apply to classifications of offenses under this code.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 1, eff. Sept. 1, 1985.

Sec. 12.404. CLASS A PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class A Parks and Wildlife Code misdemeanor shall be punished by:

(1) a fine of not less than $500 nor more than $4,000;

(2) confinement in jail for a term not to exceed one year; or

(3) both such fine and imprisonment.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1256, Sec. 11, eff. Sept. 1, 1997.

Sec. 12.405. CLASS B PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class B Parks and Wildlife Code misdemeanor shall be punished by:

(1) a fine of not less than $200 nor more than $2,000;

(2) confinement in jail for a term not to exceed 180

days; or

(3) both such fine and imprisonment.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1256, Sec. 12, eff. Sept. 1, 1997.

Sec. 12.406. CLASS C PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class C Parks and Wildlife Code misdemeanor shall be punished by a fine of not less than $25 nor more than $500.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 535, Sec. 1, eff. Sept. 1, 1987.

Sec. 12.4061. PARKS AND WILDLIFE CODE STATE JAIL FELONY. (a) An individual adjudged guilty of a Parks and Wildlife Code state jail felony shall be punished by confinement in a state jail for a term of not more than two years or less than 180 days.

(b) In addition to confinement, an individual adjudged guilty of a Parks and Wildlife Code state jail felony may be punished by a fine of not less than $1,500 and not more than $10,000.

Added by Acts 1999, 76th Leg., ch. 959, Sec. 3, eff. Sept. 1, 1999.

Sec. 12.407. PARKS AND WILDLIFE CODE FELONY. (a) An individual adjudged guilty of a Parks and Wildlife Code felony shall be punished by confinement in the Texas Department of Criminal Justice for any term of not more than 10 years or less than two years.

(b) In addition to imprisonment, an individual adjudged guilty of a Parks and Wildlife Code felony may be punished by a fine of not less than $2,000 nor more than $10,000.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1256, Sec. 13, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.143,

eff. September 1, 2009.

Sec. 12.408. SUBSEQUENT CONVICTIONS. The use of a conviction for enhancement purposes does not preclude the subsequent use of a conviction for enhancement purposes.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 1, eff. Sept. 1, 1985.

Sec. 12.409. SEPARATE OFFENSES. Each fish, bird, animal, reptile, amphibian, or egg or part of a fish, bird, animal, reptile, amphibian, or egg taken, possessed, killed, left to die, imported, exported, offered for sale, sold, purchased, attempted to be purchased, or retained in violation of any provision of this code or a proclamation or regulation adopted under this code constitutes a separate offense.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1256, Sec. 14, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 992 (H.B. 2026), Sec. 5, eff. June 18, 2005.

Sec. 12.410. AUTHORIZED PUNISHMENTS FOR CORPORATIONS AND ASSOCIATIONS. (a) If a corporation or association is adjudged guilty of an offense under this code that provides a penalty consisting of a fine only, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed the fine provided by the offense.

(b) If a corporation or association is adjudged guilty of an offense that provides a penalty including imprisonment or that provides no specific penalty, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed:

(1) $20,000 if the offense is a Parks and Wildlife Code felony; or

(2) $10,000 if the offense is a Class A or Class B Parks and Wildlife Code misdemeanor.

(c) In lieu of the fines authorized by Subsections (a) and (b) of this section, if a court finds that the corporation or association gained money or property or caused personal injury, property damage, or other loss through the commission of a Parks and Wildlife Code felony or Class A or Class B Parks and Wildlife Code misdemeanor, the court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed double the amount gained or caused by the corporation to be lost, whichever is greater.

(d) In addition to any sentence that may be imposed by this section, a corporation that has been adjudged guilty of an offense may be ordered by the court to give notice of the conviction to any person the court deems appropriate.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 1, eff. Sept. 1, 1985.

Sec. 12.411. JURISDICTION OF JUSTICE COURT. In addition to the jurisdiction provided by the constitution and other law, a justice court has jurisdiction of Class C Parks and Wildlife Code misdemeanors.

Added by Acts 1987, 70th Leg., ch. 535, Sec. 2, eff. Sept. 1, 1987.

SUBCHAPTER F. REVOCATION OR SUSPENSION OF LICENSES OR PERMITS

Sec. 12.501. REVOCATION OR SUSPENSION OF LICENSE OR PERMIT. (a) In this subchapter, "permittee" or "licensee" includes 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.

(b) 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 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 for taxes, fees, or payment of penalties imposed by this code or by a commission rule relating to a permit or license to be suspended or revoked; or

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

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 36, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 454, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 99 (S.B. 820), Sec. 1, eff. September 1, 2013.

Sec. 12.5015. AUTOMATIC REVOCATION OF HUNTING OR FISHING LICENSE OR PERMIT. (a) Except as provided by this section, any hunting or fishing license or permit issued by the department to a person is automatically revoked on final conviction of the person of an offense under Section 61.022, 62.003, 62.004, 62.005, 62.0065, 62.011, 66.004(a), or 66.004(c) or a violation of a rule adopted under Section 62.0065.

(b) If the holder of a lifetime license is finally convicted of an offense under Section 61.022, 62.003, 62.004, 62.005, 62.0065, 62.011(c), 66.004(a), or 66.004(c), or a violation of a rule adopted under Section 62.0065, the person's lifetime license is automatically suspended. The suspension is for a period set by the court of not less than one year or more than five years. If the court does not set a period, the suspension is for one year from the date the conviction becomes final.

(c) On conviction of a person for an offense under Section

61.022, 62.003, 62.004, 62.005, 62.0065, 62.011(c), 66.004(a), or 66.004(c), or a violation of a rule adopted under Section 62.0065, the court shall set a period of not less than one year and not more than five years during which the department may not issue that person a license, tag, or stamp under Chapter 42, 46, or 50. If the court does not set a period, the department may not issue that person a license, tag, or stamp under Chapter 42, 46, or 50 before the first anniversary of the date the conviction becomes final.

(d) A person who has a license or permit revoked or suspended under this section shall surrender the revoked or suspended license or permit to the court. The court shall send the department the revoked or suspended license or permit and a copy of the judgment of conviction.

(e) For purposes of this section, "final conviction" includes a plea of guilty or nolo contendere to or the imposition of deferred adjudication for an offense.

Added by Acts 1997, 75th Leg., ch. 1090, Sec. 2, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 959, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 989 (H.B. 1959), Sec. 5, eff. September 1, 2005.

Sec. 12.502. NOTICE; HEARING. The department must give the licensee or permittee an opportunity for a hearing concerning the suspension or revocation of the license or permit. Notice of the hearing must be given and the hearing held as provided by Sections 2001.052 and 2001.054, Government Code.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 36, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(70), eff. Sept. 1, 1995.

Sec. 12.503. NOTICE OF SUSPENSION OR REVOCATION. (a) After notice and hearing as provided by Section 12.502 of this code, the department shall notify the licensee or permittee of the suspension or revocation of the license or permit.

(b) The notice under this section must be given personally

or by registered or certified mail.

(c) The suspension or revocation takes effect when the notice under this section is given or delivered.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 36, eff. Sept. 1, 1985.

Sec. 12.504. TIME OF SUSPENSION OR REVOCATION. (a) A license or permit may be suspended under this subchapter for a period set by the director. The period of suspension ends on the expiration of the time set by the director or the expiration of the license or permit, whichever occurs first.

(b) The holder of a license or permit that has been suspended may not apply for another license or permit of the same kind during the period of suspension.

(c) The holder of a license or permit that has been revoked may not apply for another license or permit of the same kind for one year from the date the revocation takes effect.

(d) A person who applies for a license or permit in violation of Subsection (b) or (c) of this section commits an offense.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 36, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 959, Sec. 5, eff. Sept. 1, 1999.

Sec. 12.505. VIOLATION OF SUSPENSION, REFUSAL, OR REVOCATION. A person who engages in an activity requiring a permit or license during the time for which such license or permit has been suspended, refused, or revoked commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 36, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1256, Sec. 15, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 454, Sec. 5, eff. Sept. 1, 1999.

Sec. 12.506. APPEAL FROM SUSPENSION, REFUSAL, OR REVOCATION OF LICENSE OR PERMIT. (a) An appeal from an order of the department refusing to issue or transfer a license or permit or revoking or

suspending a license or permit may be taken to a district court of Travis County.

(b) The appeal shall be under the substantial evidence rule and against the department alone as defendant.

(c) This section does not apply to the appeal of a decision by the department refusing to issue or renew a permit to which Subchapter G applies.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 36, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 454, Sec. 2, 3, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 99 (S.B. 820), Sec. 2, eff. September 1, 2013.

Sec. 12.507. ALTERNATIVES TO SUSPENSION. (a) In lieu of suspending a license or permit under this subchapter, the department may give the licensee or permittee the opportunity to pay a civil penalty.

(b) The department shall determine the amount of the penalty and in doing so shall consider:

(1) the economic impact a suspension would have on the licensee or permittee engaging in a commercial activity under the license or permit; or

(2) the amount reasonably necessary to deter further violations.

(c) The amount of the civil penalty may not be less than $150 for each day the license or permit was to have been suspended.

(d) If the licensee or permittee does not pay the penalty before the sixth day after the date on which the department notifies him of the amount, he loses the opportunity to pay it and the department may impose the suspension.

(e) Civil penalties received by the department under this section shall be deposited to the credit of the game, fish, and water safety account.

Added by Acts 1985, 69th Leg., ch. 267, art. 1, Sec. 36, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 14, eff. Sept. 1, 1993.

Sec. 12.508. REFUSAL OF LICENSE OR PERMIT. (a) In this section:

(1) "Notice" includes a certified letter sent from the department by the United States Postal Service to the applicant at the last address supplied to the department by the applicant or verbal notice to the applicant by a representative of the department.

(2) "Finally convicted" includes a final judgment of guilt, deferred adjudication, a plea of nolo contendere, or a plea of guilty.

(b) The department may refuse to issue or transfer an original or renewal license, permit, or tag if the applicant or transferee:

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

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

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

(c) The contested case provisions of the Administrative Procedure Act (Sections 2001.051-2001.178, Government Code) do not apply to the refusal to issue, transfer, or renew a license, permit, or tag under this section.

(d) Expired.

Added by Acts 1999, 76th Leg., ch. 454, Sec. 4, eff. Sept. 1, 1999.

SUBCHAPTER G. REFUSAL TO ISSUE OR RENEW CERTAIN PERMITS RELATING TO THE CONTROL, BREEDING, OR MANAGEMENT OF DEER; APPEAL OF CERTAIN DECISIONS

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.

Added by Acts 2013, 83rd Leg., R.S., Ch. 99 (S.B. 820), Sec. 3, eff. September 1, 2013.

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.

Added by Acts 2013, 83rd Leg., R.S., Ch. 99 (S.B. 820), Sec. 3, eff. September 1, 2013.

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 department;

(2) the required permit fee;

(3) accurate reports as applicable; and

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 99 (S.B. 820), Sec. 3, eff. September 1, 2013.

Sec. 12.604. CONSIDERATIONS FOR ISSUANCE OR RENEWAL OF PERMIT; APPLICANT WITH PRIOR PENALTIES OR CONVICTIONS. (a) This section applies only to a determination of whether to issue a permit to or renew a permit for an applicant who has a final conviction or has been assessed an administrative penalty for a violation of:

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

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

(3) Section 63.002; or

(4) the Lacey Act (16 U.S.C. Sections 3371-3378).

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

(1) the number of final convictions or administrative penalties;

(2) the seriousness of the conduct on which the final conviction or administrative penalty is based;

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

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

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

(6) whether the final conviction or administrative penalty resulted from conduct committed or omitted by the applicant, an agent of the applicant, or both;

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

(8) for a renewal, whether the applicant agreed to any special provisions recommended by the department as conditions to the expiring permit; and

(9) other mitigating factors.

Added by Acts 2013, 83rd Leg., R.S., Ch. 99 (S.B. 820), Sec. 3, eff. September 1, 2013.

Sec. 12.605. PROCEDURE FOR REFUSAL TO ISSUE OR RENEW PERMIT. (a) Not later than the 10th day after the date a decision to refuse

to issue or renew a permit has been made, the department shall provide to the applicant a written statement of the reasons for the decision.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 99 (S.B. 820), Sec. 3, eff. September 1, 2013.

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

(1) any applicable factors listed under Section 12.604;

(2) the applicant's efforts toward rehabilitation;

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

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

(5) other mitigating factors.

Added by Acts 2013, 83rd Leg., R.S., Ch. 99 (S.B. 820), Sec. 3, eff. September 1, 2013.

Sec. 12.607. APPEAL OF DEPARTMENT DECISION REFUSING TO ISSUE OR RENEW PERMIT. (a) Venue to appeal a decision of the department refusing to issue or renew a permit is a district court in Travis County.

(b) The appeal shall be by trial de novo.

Added by Acts 2013, 83rd Leg., R.S., Ch. 99 (S.B. 820), Sec. 3, eff. September 1, 2013.

SUBCHAPTER H. LICENSE DEPUTIES

Sec. 12.701. ISSUANCE OF LICENSE, STAMP, PERMIT, OR TAG BY LICENSE DEPUTIES. The department may authorize the issuance of a license, stamp, permit, or tag by a license deputy.

Added by Acts 1995, 74th Leg., ch. 931, Sec. 3, eff. June 16, 1995.

Sec. 12.702. LICENSE DEPUTIES; FEES. (a) An employee of the department, a county clerk, or another person designated or contracted with by the department to issue and collect money received for a license, stamp, permit, tag, or other similar item is a license deputy and may issue and collect money for a license, stamp, permit, tag, or other similar item issued under this code, including a special issue stamp or decal.

(b) The commission by rule may set collection and issuance fees for a license, stamp, tag, permit, or other similar item issued under any chapter of this code. The commission shall not set any collection or issuance fees for license deputies at amounts less than the amounts in effect on June 1, 1995. If a collection or issuance fee or other similar fee set by another section of this code conflicts with this section, the collection or issuance fee set under the authority of this section prevails.

Added by Acts 1995, 74th Leg., ch. 931, Sec. 3, eff. June 16, 1995.

Sec. 12.703. POINT-OF-SALE SYSTEM. (a) The department may issue a license, stamp, tag, permit, or another similar item authorized by this code or federal law through the use of automated equipment and a point-of-sale system.

(b) The department may designate an entity to install the system for the issuance of licenses, stamps, permits, tags, or other similar items. A designated entity may collect revenue for the department from license deputies.

(c) The commission by rule may set the amount of compensation for a point-of-sale entity. The compensation may include an amount to be retained by the entity from the fee collected for each item issued by the entity. The rules must specify standards for the licenses, including the legibility of the license.

Added by Acts 1995, 74th Leg., ch. 931, Sec. 3, eff. June 16, 1995.
Amended by Acts 2001, 77th Leg., ch. 968, Sec. 30, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 570 (S.B. 1668), Sec. 1, eff.

September 1, 2007.

Sec. 12.704. DUTIES OF LICENSE DEPUTIES. A license deputy shall:

(1) complete and keep for the use of the department a designated copy or other record of the sale of each license, stamp, permit, or tag issued;

(2) keep a record of each license, stamp, permit, or tag issued, showing:

(A) the identification of the purchaser;

(B) the serial number of the item sold;

(C) the date of issuance; and

(D) any other information required by the department; and

(3) perform any other function required by the license deputy's agreement with the department.

Added by Acts 1995, 74th Leg., ch. 931, Sec. 3, eff. June 16, 1995.

Sec. 12.705. LICENSE, STAMP, PERMIT, AND TAG SALES REPORTS. (a) After the end of each calendar month or at any other time designated by the department, a license deputy shall send to the department a report on a form and in the manner prescribed by the department.

(b) A license deputy shall furnish any other information or material required by the license deputy's agreement with the department.

(c) The commission by rule may establish reasonable penalties for delinquent payments or reports from license deputies and may establish payment discounts for timely payments or reports from license deputies.

Added by Acts 1995, 74th Leg., ch. 931, Sec. 3, eff. June 16, 1995.

Sec. 12.706. UNISSUED ITEMS. A license deputy shall return to the department, at the department's request, unissued licenses, stamps, permits, tags, or any other materials or equipment furnished to the license deputy by the department.

Added by Acts 1995, 74th Leg., ch. 931, Sec. 3, eff. June 16, 1995.

Sec. 12.707. ISSUANCE OR ACCEPTANCE OF LICENSE, STAMP, PERMIT, OR TAG. No person may issue or accept a license, stamp, permit, or tag required by this code except on a form provided by the department.

Added by Acts 1995, 74th Leg., ch. 931, Sec. 3, eff. June 16, 1995.

Sec. 12.708. LIABILITY OF LICENSE DEPUTY FOR SALES. (a) This section applies to the sale of a license, stamp, permit, or tag generated by a license deputy or by an employee or agent of a license deputy.

(b) A license deputy holds in trust for the benefit of the state money that the license deputy receives from the sale of a license, stamp, permit, or tag, minus the amount of the authorized sales commission, until that money is transferred to the state treasury for credit to the appropriate department account. The license deputy is liable to the department for the full amount of money held in trust. If the license deputy is not an individual, each officer, director, or owner of the license deputy is personally liable to the department for the full amount of money held in trust.

Added by Acts 2005, 79th Leg., Ch. 822 (S.B. 804), Sec. 1, eff. June 17, 2005.