

PARKS AND WILDLIFE CODE  
TITLE 5. WILDLIFE AND PLANT CONSERVATION  
SUBTITLE G. PLANTS  
CHAPTER 88. ENDANGERED PLANTS

Sec. 88.001. DEFINITIONS. In this chapter:

(1) "Endangered plant" means a species of plant life that is in danger of extinction throughout all or a significant portion of its range.

(2) "Threatened plant" means a species of plant life that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(3) "Protected plant" means a species of plant life that the director determines is of historical or cultural value to the state or the area in which it is found.

(4) "Native plant" means any tree, shrub, herb, grass, forb, legume, fern, fern ally, or wildflower that is indigenous to the state and that is growing on public or private land.

(5) "Public land" means land that is owned by the state or a local governmental entity.

(6) "Take" means to collect, pick, cut, dig up, or remove.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981.

Sec. 88.002. ENDANGERED, THREATENED, OR PROTECTED NATIVE PLANTS. Species of native plants are endangered, threatened, or protected if listed as such on:

(1) the United States List of Endangered Plant Species as in effect on the effective date of this Act (50 C.F.R. Part 17); or

(2) the list of endangered, threatened, or protected native plants as filed by the director of the department.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981.

Sec. 88.003. STATEWIDE LIST. The director shall file with the secretary of state a list of endangered, threatened, or protected native plants.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981.

Sec. 88.004. AMENDMENT TO LIST. (a) If the list of endangered or threatened plants issued by the United States is modified, the director shall file an order with the secretary of state accepting the modification unless the director finds that the plant does not occur in this state. The order is effective immediately.

(b) The director may amend the list of endangered, threatened, or protected native plants by filing a modification order with the secretary of state. The order is effective on filing.

(c) The director shall give public notice of the intention to file a modification order under Subsection (b) of this section at least 60 days before the order is filed. The notice must contain the contents of the proposed order.

(d) The director shall hold a public hearing at least 30 days before the modification order authorized by Subsection (b) of this section is filed.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981.

Sec. 88.005. PERMIT. The department shall issue a permit to a qualified person to take endangered, threatened, or protected plants or parts thereof from public land for the purpose of propagation, education, or scientific studies.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981.

Sec. 88.006. REGULATIONS. The department shall adopt regulations to administer the provisions of this chapter, including regulations to provide for:

- (1) permit application forms, fees, and procedures;

- (2) hearing procedures;
- (3) procedures for identifying endangered, threatened, or protected plants; and
- (4) publication and distribution of lists of endangered, threatened, or protected plants.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981.

Sec. 88.007. ACTIVITIES BY THE DEPARTMENT. (a) The department may conduct biological research and field investigations to help determine the classification of native plants.

(b) The department may collect and disseminate information about the conservation of native plants and their habitats.

(c) The department may take an endangered, threatened, or protected plant from public land without a permit for the purpose of conservation, education, or scientific studies.

(d) The department shall distribute pictures and other information concerning endangered, threatened, or protected plants to law enforcement agencies and the public as the department determines necessary for educational purposes.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 426, Sec. 1, eff. Sept. 1, 1985.

Sec. 88.008. PROHIBITED ACTS. (a) Except as otherwise provided by this chapter, no person may take for commercial sale, possess for commercial sale, or sell all or part of an endangered, threatened, or protected plant from public land.

(b) No contract or common carrier may transport or receive for shipment all or part of an endangered, threatened, or protected native plant taken from public land.

(c) No person may take for commercial sale, possess for commercial sale, transport for commercial sale, or sell all or part of an endangered, threatened, or protected plant from private land unless the person possesses a permit issued under Section [88.0081](#) of this code and each plant is tagged as provided by Section [88.0081](#)

of this code.

(d) No person may hire or pay another person to take for commercial sale, possess for commercial sale, transport for commercial sale, or sell all or part of an endangered, threatened, or protected plant from private land unless both persons possess a permit issued under Section 88.0081 of this code.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 426, Sec. 2, eff. Sept. 1, 1985.

Sec. 88.0081. PERMIT FOR TAKING PLANTS FROM PRIVATE LAND.

(a) A person who takes, possesses, or transports for commercial sale or sells an endangered, threatened, or protected plant from private land, or who hires or pays another to perform those activities, shall possess a permit issued by the department. The permit must specify the land from which the taking is permissible, have attached a copy of the landowner's consent, and contain any other information required by the department.

(b) A person applying for a permit under this section must submit to the department:

(1) a copy of the written consent of the landowner from whose land the plant will be taken; and

(2) a permit fee set by the commission in an amount reasonable to defray administrative costs.

(c) In addition to the permit required by this section, a person taking endangered, threatened, or protected plants from private land shall attach to each plant at the time of taking a tag issued to the person by the department. The fee for each tag is \$1.

(d) No person may remove the tag from the plant until the plant has been transplanted into its ultimate site for landscaping or beautification purposes. Only the ultimate owner or a department employee may remove the tag.

(e) The commission shall adopt rules specifying the form and information required for permits and tags issued under this section.

(f) The department shall waive the tagging fee if it determines the plants were planted and cultivated for the express

purpose of being harvested for commercial purposes.

Added by Acts 1985, 69th Leg., ch. 426, Sec. 3, eff. Sept. 1, 1985.

Sec. 88.009. EXCEPTIONS. (a) This chapter does not apply to the taking, possession, or sale of endangered, threatened, or protected plants if the taking, possession, or sale is incidental to:

(1) the possession or sale of the real property on which the plant is growing;

(2) the possession or acquisition of easements or leases on which the plant is growing; or

(3) the harvest or sale of an agricultural crop if the endangered, threatened, or protected plant grows among that crop.

(b) This chapter does not apply to the possession, transportation, or sale of an endangered, threatened, or protected plant if:

(1) the plant originates in another state; and

(2) the person possessing, transporting, or selling the plant complies with the terms of any required federal permit or with the terms of a state permit required by the laws of the originating state.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981.

Sec. 88.010. INSPECTIONS. A person authorized to enforce this chapter may detain for inspection and inspect a vehicle, package, crate, or other container if the person has probable cause to believe it contains a plant in violation of this chapter.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981.

Sec. 88.011. PENALTIES. (a) Except as otherwise provided by this section, a person who violates any provision of this chapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) If it is shown at the trial of the defendant that he has been convicted within the preceding 36 months of a violation of this

chapter, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

(c) If it is shown at the trial of the defendant that he has been convicted two or more times within the preceding 60 months of a violation of this chapter, on conviction he shall be punished for a Class A Parks and Wildlife Code misdemeanor.

(d) A person who hires or pays another person to take, possess, or transport for commercial sale or sell an endangered, threatened, or protected plant in violation of Subsection (d) of Section 88.008 of this code commits an offense. An offense under this section is a Class B Parks and Wildlife Code misdemeanor.

(e) Each endangered, threatened, or protected plant taken, possessed, transported, or sold in violation of this chapter constitutes a separate offense.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 108, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 426, Sec. 4, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 16, Sec. 15.04, eff. Aug. 26, 1991.

Sec. 88.012. INJUNCTION AGAINST GOVERNMENTAL VIOLATOR. A state or local governmental agency that violates or threatens to violate a provision of this chapter is subject to a civil suit for injunctive relief. The suit shall be brought in the name of the State of Texas.

Added by Acts 1981, 67th Leg., p. 2461, ch. 637, Sec. 1, eff. Sept. 1, 1981.