

CHAPTER 426

S.B. No. 577

An Act relating to the protection of endangered, threatened, or protected plants; authorizing certain fees; providing penalties; amending the Parks and Wildlife Code by adding Subsection (d) to Section 88.007; amending Subsection (c) and adding Subsection (d), Section 88.008; amending Subsection (a) and adding Subsections (d) and (e), Section 88.011; and adding Section 88.0081 to Chapter 88.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 88.007, Parks and Wildlife Code, is amended by adding Subsection (d) to read as follows:

“(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.”

SECTION 2. Section 88.008, Parks and Wildlife Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

“(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 [the landowner consents in writing to the taking].”

“(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.”

SECTION 3. Chapter 88, Parks and Wildlife Code, is amended by adding Section 88.0081 to read as follows:

"Section 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."

SECTION 4. Section 88.011, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

"(a) A person who violates any provision of this chapter commits an offense. Except [is guilty of a misdemeanor and, except] as provided by Subsection (b), [or] (c), or (d) of this section, an offense under this section is a Class C Parks and Wildlife Code misdemeanor [or conviction is punishable by a fine of not less than \$25 nor more than \$200]."

"(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."

SECTION 5. The Parks and Wildlife Department shall submit a report to the 70th Legislature concerning enforcement activities under Chapter 88, Parks and Wildlife Code.

SECTION 6. This Act takes effect September 1, 1985.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 13, 1985, by a viva-voce vote; passed the House on May 23, 1985, by a non-record vote.

Approved: June 11, 1985.

Effective: September 1, 1985