

CHAPTER 827

S.B. No. 980

An Act relating to regulation of transportation of and commerce in fish and other edible marine products and to records of convictions and their use; providing penalties; amending the Parks and Wildlife Code, by amending Sections 47.0091; 47.0111; 47.051; and 66.209 and Subsection (a), Section 47.052; Subsection (c), Section 66.111; Subsections (f) through (k), Section 66.201; and by adding Section 12.117 to Chapter 12 and Section 47.012 to Chapter 47; and Section 66.011 to Chapter 66.

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

SECTION 1. Section 47.0091, Parks and Wildlife Code, is amended to read as follows:

"Section 47.0091. **PURCHASE OF FISH.** No wholesale fish dealer or shrimp house operator as defined by Section 77.001(9) of this code may purchase [in this state freshwater fish] for resale or receive for sale, barter, or exchange any fresh or frozen edible aquatic product from any person in this state unless he purchases the product from the holder of:

"(1) a commercial fisherman's license;

"(2) a wholesale fish dealer's license; or

"(3) a shrimp house operator's license [unless he purchases the fish from a licensed commercial fisherman]."

SECTION 2. Section 47.0111, Parks and Wildlife Code, is amended to read as follows:

"Section 47.0111. **PURCHASE OF FISH.** No retail fish dealer may purchase [in this state freshwater fish] for resale any fish from any person or entity in this state unless he purchases the fish from the holder of:

"(1) a [licensed] wholesale fish dealer's license; [dealer, or]

"(2) a [licensed] commercial fisherman's license; or

"(3) a shrimp house operator's license [fisherman]."

SECTION 3. Chapter 47, Parks and Wildlife Code, is amended by adding Section 47.012 to read as follows:

"Section 47.012. **PURCHASE OF FISH BY RESTAURANT OWNER, OPERATOR, OR EMPLOYEE.** No restaurant owner, operator, or employee may purchase for consumption by the restaurant's patrons on the restaurant's premises any fish from any person or entity in this state unless the person purchases the fish from the holder of:

- “(1) a wholesale fish dealer’s license;
- “(2) a commercial fisherman’s license; or
- “(3) a shrimp house operator’s license.”

SECTION 4. Section 47.051, Parks and Wildlife Code, is amended to read as follows:

“Section 47.051. **PENALTY.** A person who violates a provision of Section 47.002, 47.004 through 47.006, 47.009 through 47.011, 47.013 through 47.015, 47.017, 47.032 through 47.034, or 47.037, of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200 and is subject to the forfeiture, for one year from the date of the conviction, of a license held under the authority of the listed sections.”

SECTION 5. Subsection (a), Section 47.052, Parks and Wildlife Code, is amended to read as follows:

“(a) A person who fails to comply with or who violates a provision of Section 47.003(a), [or] 47.007, or 47.012 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000, by confinement in jail for not less than one month nor more than one year, or by both.”

SECTION 6. Chapter 66, Parks and Wildlife Code, is amended by adding Section 66.011 to read as follows:

“Section 66.011. **IDENTIFICATION OF VEHICLE TRANSPORTING FISH.** (a) No person may transport any fish for commercial purposes unless the person clearly identifies the motor vehicle, trailer, or semitrailer as a vehicle that carries fish. The commission shall prescribe by proclamation the identification requirements for a motor vehicle, trailer, or semitrailer transporting fish, and the commission may prescribe that the identification shall list the state of origin of the fish. In this subsection, ‘motor vehicle,’ ‘trailer,’ and ‘semitrailer’ have the meaning given those terms by the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon’s Texas Civil Statutes).

“(b) A person who violates this section commits an offense. An offense under this section is a Class C misdemeanor.”

SECTION 7. Subsection (c), Section 66.111, Parks and Wildlife Code, is amended to read as follows:

“(c) Subsection (a) of this section does not apply to a fish reared in private water and marketed for the purpose of stocking the water of this state, nor to a fish shipped into this state and offered for sale for consumption. The fish shipped into this state must have a bill of lading with the shipment stating the number, pounds, and species of fish in the shipment, their place of origin, the name and address of the shipper, the name and address of the receiver, and the date of the shipment. The receiver of the shipment must keep the bills of lading on file for not less than one year from the date of shipment.”

SECTION 8. Subsections (f) through (k), Section 66.201, Parks and Wildlife Code, are amended to read as follows:

“(f) This section applies to the possession, transportation, sale, and purchase of redfish and speckled sea trout without regard to where the fish was caught, but does not apply to:

“(1) the transportation and possession of redfish and speckled sea trout caught outside this state and transported by common carrier from outside this state to a point of delivery outside this state;

“(2) redfish and speckled sea trout that are raised by a licensed fish farmer in a private pond and are marked or identified as provided by the rules of the commission under Chapter 48 of this code; or

“(3) the importation into this state from another state or country of lawfully taken, caught, or raised redfish or speckled sea trout, transported or sold when not alive, if tagged, packaged, and [or] labeled under regulations of the commission. The commission may require that redfish and speckled sea trout enter the stream of commerce for sale in Texas in a state allowing ready identification of the species, including a requirement that the fish come into the state with head and tail intact and tagged, and a requirement that a copy of the bill of lading accompany all imported redfish and speckled sea trout through each sales transaction, including transactions at the [to their] place of final sale to the consumer. The commission may [shall] allow subsequent sale of lawfully imported fish without head and tail intact and without tag provided the fish are labeled in a manner prescribed by the commission and the tag when removed is destroyed. Tags, if required, shall be of a type prescribed by the commission and shall be sold to applicants at cost as determined by the commission.

“(g) Any person in this state receiving directly from another state or foreign country, importing, transporting, or selling [for resale] dead redfish or speckled sea trout lawfully taken, caught, or raised shall obtain a license from the commission. The fee for such license is \$50 per

calendar year or part thereof. Such imported fish shall be tagged, packaged, and ~~or~~ labeled as provided in this section and in accordance with the regulations of the commission, and must be accompanied by a copy of the bill of lading ~~[if required by the commission]~~. *The commission may provide prenumbered invoices to persons importing redfish or speckled sea trout into this state from another state or foreign country and may charge a fee for the invoices in an amount determined by the commission that is reasonable to defray administrative costs incurred under this subsection. The invoices shall be used to report shipments of redfish or speckled sea trout. A person who receives invoices under this subsection must account to the commission for all invoices received as required by rules adopted by the commission. A person commits an offense if the person fails or refuses to account for an invoice as required by commission rule. An offense under this subsection is a Class C misdemeanor. If it is shown at the trial of the defendant for a violation of this subsection that he has been convicted within three years before the trial date of a violation of this subsection, on conviction he shall be punished for a Class B misdemeanor. If it is shown at the trial of the defendant for a violation of this subsection that he has been convicted two or more times within five years before the trial date of a violation of this subsection, on conviction he shall be punished for a Class A misdemeanor.*

“(h) It shall be unlawful for any person ~~[required to hold a license under Subsection (g) of this section]~~ to possess any imported redfish or speckled sea trout unless it is tagged, ~~or~~ packaged, and labeled pursuant to this section. A violation of the above stated prohibition shall be a Class A misdemeanor. Any person possessing for final sale to the consumer redfish or speckled sea trout in violation of this Act shall be guilty of a Class B ~~[C]~~ misdemeanor.

“(i) Any person may ~~sell or~~ purchase for use as food, at any season of the year, any imported redfish or speckled sea trout tagged, packaged, and labeled ~~or marked~~ for identification as provided in this section.

“(j) Possession of more than three times the possession limits of redfish or speckled sea trout as provided by Section 66.2011 of this code is a Class A misdemeanor ~~[prima facie evidence that the fish are possessed for sale in violation of Subsection (a) of this section]~~.

“(k) No provision in this section shall be construed to require the provision of bills of lading, invoices, tags, or labels to the ultimate consumer upon final retail sales ~~[person may transport redfish or speckled sea trout for commercial purposes unless the person clearly identifies the motor vehicle, trailer, or semitrailer as a vehicle that carries fish. The commission shall prescribe by proclamation the identification requirements for a motor vehicle, trailer, or semitrailer transporting redfish or speckled sea trout, and the commission may prescribe that the identification shall list the state of origin of such redfish or trout. In this subsection, ‘motor vehicle,’ ‘trailer,’ and ‘semitrailer’ have the meaning given those terms by the Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon’s Texas Civil Statutes)]~~.”

SECTION 9. Section 66.209, Parks and Wildlife Code, is amended to read as follows:

“Section 66.209. STATISTICAL REPORTS. (a) The department shall gather statistical information on the harvest of fish, shrimp, oysters, and other forms of edible marine products ~~[life] of this state [the Texas coast]~~.

“(b) The department shall prescribe, produce, and distribute the report form. The form shall be designed to allow for statistical information concerning the numbers and quantity by weight of each species ~~[seafood] taken, [the species taken,] the kinds of equipment used to take each species, and the name of the body of water from which each species taken [the catch is made]~~.

“(c) No dealer who purchases fish, shrimp, oysters, or other forms of edible marine products ~~[life] directly from any person other than a licensed dealer [the fisherman]~~ may fail to file the report with the department each month on or before the 10th day of the month following the month in which the reportable activity occurred. The report must be filed even if no reportable activity occurs in the month covered by the report. No dealer required to report may ~~[willfully]~~ file an incorrect or false report. A culpable mental state is not required to establish an offense under this section.

“(d) Any dealer who violates Subsection (c) of this section is guilty of a Class C misdemeanor ~~[and on conviction is punishable by a fine of not less than \$10 nor more than \$50]~~.”

SECTION 10. Chapter 12, Parks and Wildlife Code, as amended, is amended by adding Section 12.117 to read as follows:

“Section 12.117. (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 a copy of the defendant’s signature, fingerprints, and 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.”

SECTION 11. 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 25, 1985, by the following vote: Yeas 28, Nays 0; Senate concurred in House amendment on May 27, 1985, by a viva-voce vote; passed the House, with amendment, on May 21, 1985, by a non-record vote.

Approved: June 15, 1985

Effective: August 26, 1985