

CHAPTER 365

H.B. No. 1659

AN ACT

relating to the issuing of commercial/business licenses and permits by the Texas Parks and Wildlife Department.

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

SECTION 1. Section 44.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 44.003. GAME BREEDER'S LICENSE. The department shall issue a game breeder's license on payment of a license fee of \$10 or an amount set by the commission, whichever amount is more. The license is valid for a *yearly period* [~~of one year following the date of its issuance~~]. *Each yearly period begins on September 1 of a year and extends through August 31 of the next year.*

SECTION 2. Section 44.007, Parks and Wildlife Code, is amended to read as follows:

Sec. 44.007. RECORDS. (a) Each game breeder shall keep a written record in a suitably bound book for the period from *August 1* [~~the date of license issuance~~] until the following *July 31* [~~September 1~~] containing:

(1) the number and source of each kind of game animal on hand at the time the license is issued;

(2) the number, source, and date of receipt of each kind of game animal on hand at any time after the license is obtained; [~~and~~]

(3) the number of each kind of game animal shipped or delivered, the date of shipment or delivery, and the name and address of persons to whom the shipment or delivery is made; *and*

(4) *any other information determined by the commission to be necessary to enforce the provisions of this chapter.*

(b) *During August of each year, but before August 31, a game breeder shall send to the department a report showing the information required by this section.*

SECTION 3. Section 45.002(c), Parks and Wildlife Code, is amended to read as follows:

(c) A license is valid for a *yearly period* [~~one year from the date of its issuance~~]. *Each yearly period begins on September 1 of a year and extends through August 31 of the next year.*

SECTION 4. Section 45.008(b), Parks and Wildlife Code, is amended to read as follows:

(b) During August of each year, but before August 31, a commercial game bird breeder shall send to the department a report showing the total number of game birds in the possession of the breeder during the *reporting period* [~~previous year~~] and accounting for the acquisition and disposition of each game bird. *The reporting period is from August 1 of the preceding year through July 31 of the current year.*

SECTION 5. Section 47.001(1), Parks and Wildlife Code, is amended to read as follows:

(1) "Commercial fisherman" means a person who catches [~~edible~~] aquatic products except *shrimp taken with a license issued under the authority of Chapter 77 of this code or oysters taken from the water of this state for pay or for the purpose of sale, barter, or exchange or any other commercial purpose.*

SECTION 6. Section 47.001(6), Parks and Wildlife Code, is amended to read as follows:

(6) "*Fishing* [~~Fish~~] *guide*" means a person who operates a boat for compensation to accompany or to transport a person *or persons* engaged in fishing in the water of this state.

SECTION 7. Section 47.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.004. *FISHING* [~~FISH~~] *GUIDE LICENSE*. (a) No person may engage in business as a *fishing* [~~fish~~] *guide* unless *the person* [~~he~~] has obtained a *fishing* [~~fish~~] *guide* license.

(b) The license fee for a *fishing* [fish] guide license is \$50 or an amount set by the commission, whichever amount is more.

SECTION 8. Section 47.007(a), Parks and Wildlife Code, is amended to read as follows:

(a) No person may use a vessel required to be numbered or registered under the laws of this state or the United States for the purpose of catching or assisting in catching aquatic products except shrimp, oysters, or menhaden, from the waters of this state, *or have on board a vessel, or unload, or allow to be unloaded at a port or point in this state, edible aquatic products caught or taken from salt water outside the state without having been previously unloaded in some other state or foreign country*, for pay or for the purpose of sale, barter, exchange, or any other commercial purpose unless the vessel is licensed as a commercial fishing boat and has a commercial fishing boat number affixed to it.

SECTION 9. Section 47.007(d), Parks and Wildlife Code, is amended to read as follows:

(d) An applicant for a commercial *fishing* [fish] boat license, *which is not a renewal of the previous year's license*, must submit to the department the vessel's United States Coast Guard Certificate of Documentation or Texas' or other state's Certificate of Number for a motorboat. The license issued by the department must contain:

(1) the name of the boat *if the boat is registered with the United States Coast Guard*; and

(2) the number appearing on the United States Coast Guard Certificate of Documentation or [of] Texas' or other state's Certificate of Number.

SECTION 10. Section 47.008(b), Parks and Wildlife Code, is amended to read as follows:

(b) The license fee for each menhaden boat is \$2,000 [~~a year~~] or an amount set by the commission, whichever amount is more, *for each yearly period*.

SECTION 11. Section 47.0091, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.0091. PURCHASE OF AQUATIC PRODUCTS BY WHOLESALE FISH DEALERS. No wholesale fish dealer may purchase for resale or receive for sale, barter, exchange, or any other commercial purpose any aquatic product from any person or entity in this state unless he purchases the product from the holder of:

(1) a general commercial fisherman's license;

(2) a commercial oyster fisherman's license;

(3) a commercial oyster boat license;

(4) a wholesale fish dealer's license; [of]

(5) a fish farmer's license;

(6) *a commercial shrimp boat license; or*

(7) *a commercial oyster boat captain's license.*

SECTION 12. Section 47.0111, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.0111. PURCHASE OF AQUATIC PRODUCTS BY RETAIL FISH DEALERS. No retail fish dealer may purchase for resale or receive for sale, barter, exchange, or any other commercial purposes any aquatic products from any person or entity in this state unless he purchases the product from the holder of:

(1) a wholesale fish dealer's license;

(2) a general commercial fisherman's license *or a commercial shrimp boat license when the retail fish dealer has given written notification to the executive director of the department or his designee of the dealer's intent to purchase aquatic products from the holder of a general commercial fisherman's license or a commercial shrimp boat license*;
or

(3) a fish farmer's license.

SECTION 13. Section 47.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.012. PURCHASE OF AQUATIC PRODUCTS 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 aquatic product

from any person or entity in this state unless the person purchases the aquatic product from the holder of:

- (1) a wholesale fish dealer's license;
- (2) a general commercial fisherman's license; [or]
- (3) a fish farmer's license; or
- (4) a commercial shrimp boat license.

SECTION 14. Section 47.031, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.031. EXPIRATION OF LICENSES. (a) *All licenses and permits issued under the authority of Chapter 47 of this code are valid only during the yearly period for which they are issued without regard to the date on which the licenses are acquired. Each yearly period begins on September 1 of a year and extends through August 31 of the next year* [~~Except as provided in Subsections (b) and (c) of this section, all licenses issued under this chapter expire August 31 following the date of issuance.~~].

(b) *All licenses and permits issued under the authority of Chapter 47 of this code may not be transferred to another person except that a license issued in the name of a business shall remain valid for the business location specified on the license or permit if a change of ownership and/or business name occurs. A license issued under the authority of Section 47.009 or 47.011 or 47.014 or 47.016 may be transferred to a new address if the business moves to another location. A license issued under the authority of Section 47.010 or 47.013 may be transferred to another vehicle or to a new owner of the same vehicle. The commission, by regulation, may prescribe requirements necessary to clarify license and permit transfer procedures and may prescribe, by regulation, forms to be used and fees to be charged for transfer of licenses and permits in this chapter and for duplicate license plates and duplicate or replacement licenses and permits* [~~A menhaden boat license expires one year from the date of issuance.~~].

[~~(c) A menhaden fish plant license expires one year from the date of issuance.~~]

SECTION 15. Chapter 66, Subchapter A, Parks and Wildlife Code, is amended by adding Section 66.017 to read as follows:

Sec. 66.017. LICENSE, TAG, AND PERMIT EXPIRATIONS AND TRANSFERS. (a) *All licenses, tags, and permits issued under the authority of Chapter 66 of this code are valid only during the yearly period for which they are issued without regard to the date on which the licenses are acquired. Each yearly period begins on September 1 of a year and extends through August 31 of the next year.*

(b) *All licenses, tags, and permits issued under the authority of Chapter 66 of this code may not be transferred to another person except that a license issued in the name of a business shall remain valid for the business location specified on the license or permit if a change of ownership and/or business name occurs. A license issued under the authority of Section 66.020(e) may be transferred to a new address if the business moves to another location. The commission, by regulation, may prescribe requirements necessary to clarify license and permit transfer procedures and may prescribe, by regulation, forms to be used and fees to be charged for transfer of licenses and permits in this chapter and for duplicate or replacement licenses, tags, and permits.*

SECTION 16. Section 76.101, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.101. OYSTER LICENSES REQUIRED. (a) No person may take or attempt to take oysters from the public water of this state for noncommercial use by the use of a dredge or tongs without first having acquired a *sport* [sports] oyster boat license from the department.

(b) Except as provided in Subsection (d) of this section, no person may take or attempt to take oysters from the public water of this state for pay or for the purpose of sale, barter, or exchange or any other commercial purpose without first having acquired from the department a commercial oyster fisherman's license.

(c) No person may take or attempt to take oysters from the public water of this state by the use of a dredge, tongs, or other mechanical means, or by the use of a boat or other vessel

for pay, or for the purpose of sale, barter, or exchange or any other commercial purpose without first having acquired from the department a commercial oyster boat license.

(d) The captain and crew of a licensed commercial oyster boat are not required to have commercial oyster fisherman's licenses to take oysters while they are on a licensed boat that is being used to take oysters.

(e) The captain and each crew member of a licensed commercial oyster boat, each person on a licensed *sport* [sports] oyster boat, and each person oystering under a commercial oyster fisherman's license must possess and produce on request to any enforcement officer proof of the person's identity.

(f) *The captain of a commercial oyster boat must hold a valid commercial oyster boat captain's license to operate a commercial oyster boat while taking or attempting to take oysters from the public water of this state.*

SECTION 17. Section 76.102, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.102. LICENSE APPLICATION. (a) An applicant for an oyster boat license, *which is not a renewal of the previous year's license*, issued under this subchapter must submit to the department the boat's United States Coast Guard certificate of documentation or Texas' or other state's certificate of number for a motorboat.

(b) The license issued by the department must contain:

(1) the name of the boat *if the boat is registered with the United States Coast Guard*; and

(2) the number appearing on the United States Coast Guard certificate of documentation or Texas' or other state's certificate of number.

SECTION 18. Section 76.103, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.103. TYPES OF LICENSES; PERIOD OF VALIDITY. ~~[(a) Only from August 1 through August 31, the department may issue commercial oyster boat licenses, sports oyster boat licenses, and commercial oyster fisherman's licenses, except that vessels purchased or constructed after August 31 of a year may be licensed for that license year at any time before August 1 of the next year.~~

~~[(b)] A commercial oyster boat license, commercial oyster boat captain's license, sport [sports] oyster boat license, or commercial oyster fisherman's license expires on August 31 of the yearly period for which it is issued.~~

SECTION 19. Chapter 76, Subchapter C, Parks and Wildlife Code, is amended by adding Section 76.1031 to read as follows:

Sec. 76.1031. LICENSE EXPIRATIONS AND TRANSFERS. (a) *All licenses issued under the authority of Chapter 76 of this code are valid only during the yearly period for which they are issued without regard to the date on which the licenses are acquired. Each yearly period begins on September 1 of a year and extends through August 31 of the next year.*

(b) *All licenses issued under the authority of Chapter 76 of this code may not be transferred to another person or vessel except as provided by this subsection. The commission, by regulation, may prescribe requirements necessary to clarify license transfer procedures and may prescribe, by regulation, forms to be used and fees to be charged for transfer of licenses in this chapter and for duplicate license plates or duplicate or replacement licenses.*

SECTION 20. Section 76.104, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.104. LICENSE FEES. (a) Except as provided by Subsection (e) ~~[(d)]~~ of this section, the fee for a commercial oyster boat license is \$350 or an amount set by the commission, whichever amount is more.

(b) Except as provided by Subsection (f) ~~[(e)]~~ of this section, the fee for a *sport* [sports] oyster boat license is \$10 or an amount set by the commission, whichever amount is more.

(c) Except as provided by Subsection (g) ~~[(f)]~~ of this section, the fee for a commercial oyster fisherman's license is \$100 or an amount set by the commission, whichever amount is more. *The definition for "resident" for this subsection is the same as the resident definition in Section 47.001 of this code.*

(d) *Except as provided by Subsection (h) of this section, the fee for a commercial oyster boat captain's license is \$25 or an amount set by the commission, whichever amount is more. The definition for "resident" for this subsection is the same as the resident definition in Section 47.001 of this code.*

(e) [(d)] The fee for a commercial oyster boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of documentation issued by the United States Coast Guard that lists a home port in this state is \$1,400 or an amount set by the commission, whichever amount is more.

(f) [(e)] The fee for a sport [sports] oyster boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of documentation issued by the United States Coast Guard that lists a home port in this state is \$40 or an amount set by the commission, whichever amount is more.

(g) [(f)] The fee for a nonresident commercial oyster fisherman's license is \$250 or an amount set by the commission, whichever amount is more. *The definition for "nonresident" for this subsection is the same as the nonresident definition in Section 47.001 of this code.*

(h) *The fee for a nonresident commercial oyster boat captain's license is \$100 or an amount set by the commission, whichever amount is more. The definition for "nonresident" for this subsection is the same as the nonresident definition in Section 47.001 of this code.*

SECTION 21. Section 76.1041(b), Parks and Wildlife Code, is amended to read as follows:

(b) A commercial oyster boat license issued under this subchapter must be a metal or plastic sign or emblem [at least 32 square inches in] of sufficient size to allow enforcement of this chapter and have a different color or design for each license period.

SECTION 22. Section 76.105(b), Parks and Wildlife Code, is amended to read as follows:

(b) No operator of a sport [sports] oyster boat may use more than one dredge, which may not exceed 14 inches in width.

SECTION 23. Section 76.107, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.107. SALE OF SPORT [SPORTS] OYSTERS PROHIBITED. No person may sell oysters taken under the authority of a sport [sports] oyster boat license.

SECTION 24. Section 76.111(c), Parks and Wildlife Code, is amended to read as follows:

(c) Possession by a holder of a sport [sports] oyster boat license of more than one barrel of oysters is prima facie evidence that the oysters were harvested for pay, sale, barter, or exchange or other commercial purpose.

SECTION 25. Sections 77.031(b), (c), (d), (e), and (f), Parks and Wildlife Code, are amended to read as follows:

(b) The fee for a commercial bay shrimp boat license is \$170 [~~\$80~~] or an amount set by the commission, whichever amount is more. *The executive director may set a fee lower than \$170 for licenses issued from December 16, 1993, through August 31, 1994, and which expire on August 31, 1994.*

[(e) A commercial bay shrimp boat license expires on March 1 of the year following the date of issuance.]

(c) [(d)] An applicant for a commercial bay shrimp boat license must submit to the department an affidavit that the applicant intends to derive the major portion of his livelihood from the commercial fishery and that he will maintain adequate facilities to conduct the business.

[(e) Except as provided in Section 77.0371 of this code, not more than one commercial bay shrimp boat license may be issued to a boat during the licensing period.]

(d) [(f)] The fee for a commercial bay shrimp boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of documentation issued by the United States Coast Guard that lists a home port in this state is \$500 [~~\$320~~] or an amount set by the commission, whichever amount is more.

SECTION 26. Sections 77.033(b), (c), (d), and (e), Parks and Wildlife Code, are amended to read as follows:

(b) The fee for a commercial bait-shrimp boat license is \$170 [~~\$80~~] or an amount set by the commission, whichever amount is more.

~~[(c) A commercial bait-shrimp boat license expires August 31 following the date of issuance.~~

~~[(d) Not more than one commercial bait-shrimp boat license may be issued to a boat during for each licensing period.]~~

(c) ~~[(e)]~~ The fee for a commercial bait-shrimp boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of documentation issued by the United States Coast Guard that lists a home port in this state is \$500 [~~\$320~~] or an amount set by the commission, whichever amount is more.

SECTION 27. Sections 77.035(b), (c), (d), and (e), Parks and Wildlife Code, are amended to read as follows:

(b) The fee for a commercial gulf shrimp boat license is \$250 [~~\$100~~] or an amount set by the commission, whichever amount is more.

~~[(e) The commercial gulf shrimp boat license expires August 31 following the date of issuance.~~

~~[(d) Except as provided in Section 77.0371 of this code, not more than one commercial gulf shrimp boat license may be issued to a boat during the licensing period.]~~

(c) ~~[(e)]~~ The fee for a commercial gulf shrimp boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of documentation issued by the United States Coast Guard that lists a home port in this state is \$1,000 [~~\$200~~] or an amount set by the commission, whichever amount is more.

SECTION 28. Section 77.036, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.036. OFFICIAL REGISTRATION. (a) An applicant for a commercial shrimp boat license, *which is not a renewal of the previous year's license*, issued under this subchapter must submit to the department the boat's United States Coast Guard certificate of documentation or the Texas certificate of number for a motorboat or *other state's certificate of number for a motorboat*.

(b) The certificate of license issued by the department for a commercial shrimp boat must contain the name of the boat *if the boat is registered with the United States Coast Guard* and the number appearing on the United States Coast Guard certificate of documentation or the Texas or *other state's* certificate of number.

SECTION 29. Chapter 77, Subchapter C, Parks and Wildlife Code, is amended by adding Section 77.0361 to read as follows:

Sec. 77.0361. LICENSE EXPIRATIONS AND TRANSFERS. (a) *All licenses issued under the authority of Chapter 77 of this code are valid only during the yearly period for which they are issued without regard to the date on which the licenses are acquired. Each yearly period begins on September 1 of a year and extends through August 31 of the next year.*

(b) *Commercial bay shrimp boat licenses issued from the effective date of this section until December 15, 1993, shall expire on March 1, 1994, and licenses issued from December 16, 1993, through August 31, 1994, shall expire on August 31, 1994.*

(c) *All licenses issued under the authority of Chapter 77 of this code may not be transferred to another person or vessel except as provided by this subsection. The commission, by regulation, may prescribe requirements necessary for license transfers and may prescribe, by regulation, forms to be used and fees to be charged for transfers of licenses in this chapter and for duplicate license plates and/or duplicate or replacement licenses.*

SECTION 30. Section 77.037, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.037. TRANSFER OF LICENSE. A commercial shrimp boat license issued under this subchapter may be transferred on the application of the licensee [~~only~~] from a boat that has been destroyed or lost to a boat acquired by the licensee as a replacement. *The commission, by regulation, may prescribe requirements necessary to clarify license transfer procedures and may prescribe, by regulation, forms to be used and fees to be charged for transfer of licenses authorized by this subsection.*

SECTION 31. Section 77.040, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.040. OTHER LICENSES REQUIRED. (a) A person holding a commercial shrimp boat license under this subchapter is not required to obtain a commercial fishing boat license under Section 47.007 of this code.

(b) The captain and each paid member of the crew of a boat having a commercial shrimp boat license issued under this subchapter *are not required to [must] have a general commercial fisherman's license issued under Section 47.002 of this code unless a species of aquatic life other than shrimp is possessed on board the boat or vessel.* ~~but these licenses may be purchased in the name of the vessel. The license form provided by the department for a vessel may be a single license covering the number of persons licensed as captain and crew, and the fee for the total number of persons licensed is the amount provided in Section 47.002 of this code times the number of persons comprising the captain and crew.~~

(c) *The captain and each crew member of a licensed commercial shrimp boat must possess and produce on request to any enforcement officer proof of the person's identity.*

SECTION 32. Section 78.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 78.002. LICENSE FORM; EXPIRATION. The license form shall be prescribed by the department and shall designate the water in which the licensee may operate. ~~[The license expires one year after the date of issuance.]~~ *All licenses issued under the authority of Chapter 78 of this code are valid only during the yearly period for which they are issued without regard to the date on which the licenses are acquired. Each yearly period begins on September 1 of a year and extends through August 31 of the next year.*

SECTION 33. Sections 77.032 and 77.0371, Parks and Wildlife Code, are repealed.

SECTION 34. This Act takes effect on September 1, 1993, except that Sections 1, 2, 3, 4, 14, 15, 32, 33, and 34 shall take effect immediately after the passage of this Act. Section 25 of this Act takes effect on December 16, 1993. Licenses issued or renewed on September 1, 1993, or later will expire on August 31, 1994. Licenses issued prior to September 1, 1993, which will expire prior to August 31, 1994, shall remain valid until their original expiration date except that from the effective date of this Act until August 31, 1994, the executive director may designate certain licenses referred to by Sections 1, 3, 14, 15, and 32 of this Act to be issued for a reduced fee amount and/or issued for a term longer than 12 months. The reduced fee amount for these licenses may not be less than the amounts provided in Sections 44.003, 45.003, 47.008, 66.020(e), and 78.003, Parks and Wildlife Code.

SECTION 35. 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 according to its terms, and it is so enacted.

Passed by the House on May 4, 1993: Yeas 137, Nays 0, 2 present, not voting; passed by the Senate on May 18, 1993: Yeas 31, Nays 0.

Approved May 31, 1993.

Effective Sept. 1, 1993, except §§ 1 to 4, 14, 15, and 32 to 34 effective May 31, 1993, and § 25 effective Dec. 16, 1993.