

**Texas AIS Statutes**

**Tex. Parks & Wild. Code Tit. 5, Ch. 66 (Fish and Aquatic Plants)**

**§ 66.007. Exotic Harmful or Potentially Harmful Fish and Shellfish**

(a) No person may import, possess, sell, or place into the public water of this state exotic harmful or potentially harmful fish or shellfish except as authorized by rule or permit issued by the department.

(b) The department shall publish a list of exotic fish and exotic shellfish for which a permit under Subsection (a) is required.

(c) The department shall make rules to carry out this section.

(c-1) The commission by rule shall waive the initial and renewal fees for an exotic species permit if the permit or permit renewal is requested by a public school to establish and maintain an educational program that will give students experience with a sustainable system of agriculture that mixes aquaculture and hydroponics. To qualify for the fee waiver, the school must submit an application to the department showing that the school's program meets the department's requirements, including requirements for supervision, handling of the exotic species, and control of wastes.

(d) An operator of a commercial aquaculture facility as defined by Section 134.001, Agriculture Code, may import, possess, or sell harmful or potentially harmful exotic fish species as provided by Section 134.020, Agriculture Code.

(e) In this section:

(1) "Exotic fish" means a nonindigenous fish that is not normally found in the public water of this state.

(2) "Exotic shellfish" means a nonindigenous shellfish that is not normally found in the public water of this state.

(3) "Public water" has the meaning assigned by Section 66.015.

(f) An operator of a commercial aquaculture facility as defined by Section 134.001, Agriculture Code, may not import, possess, propagate, or transport exotic shellfish unless the operator furnishes evidence required by the department showing that the shellfish are free of disease.

(g) The commission may adopt rules to control a disease or agent of disease transmission that:

(1) may affect penaeid shrimp species; and

(2) has the potential to affect cultured species or other aquatic species.

(h) If one or more manifestations of disease is observed in any cultured marine penaeid shrimp species, the department shall immediately place the aquaculture facility under quarantine condition. The department shall determine, by rule, the meaning of “manifestation of disease” and “quarantine condition” under this section.

(i) The department may coordinate with the Texas Animal Health Commission regarding testing for diseases.

(j) Except as provided in Subsection (k), an operator of an aquaculture facility under quarantine condition may not discharge waste or another substance from the facility except with approval of the department and a wastewater discharge authorization from the Texas Commission on Environmental Quality.

(k) Even if under quarantine condition, an aquaculture facility shall discharge wastewater or another substance as necessary to comply with an emergency plan that has been submitted to and approved by the department and incorporated into a wastewater discharge authorization issued by the Texas Commission on Environmental Quality.

(l) On receiving notice from an owner of the observance of manifestations of disease, the department shall immediately:

(1) notify the Department of Agriculture, the Texas Commission on Environmental Quality, and the Texas Animal Health Commission; and

(2) advise the Department of Agriculture, the Texas Commission on Environmental Quality, and the Texas Animal Health Commission regarding the appropriate action to be taken.

(m) A water transfer described by this subsection is not a violation of this section. The department may not require a permit under this section for a water transfer described by this subsection. This subsection applies to a water transfer by a district or authority created under Section 59, Article XVI, Texas Constitution, that:

(1) is initially conveyed by a water intake structure that is:

(A) shared by at least two districts or authorities; and

(B) located on a reservoir situated on the boundary of this state and another state;

(2) uses a closed conveyance system approved by the United States Army Corps of Engineers in accordance with an invasive species management plan approved by the United States Army Corps of Engineers; and

(3) contributes to a water supply that serves at least 1.5 million people, all of whom reside in an area that:

- (A) borders another state;
- (B) contains at least 10 contiguous counties;
- (C) contains at least one county with a population of more than one million; and
- (D) is adjacent to a county with a population of more than one million.

(n) A water transfer described by this subsection is not a violation of this section. The department may not require a permit under this section for a water transfer described by this subsection. This subsection applies to a water transfer that meets the following criteria:

(1) the transfer is through a water supply system, including a related water conveyance, storage, or distribution facility;

(2) the transfer is undertaken by a utility owned by a political subdivision, including a water district or municipality; and

(3) the transfer is described by one or more of the following:

(A) a transfer from a water body in which there is no known exotic harmful or potentially harmful fish or shellfish population;

(B) a transfer of water into a water body in which there is a known exotic harmful or potentially harmful fish or shellfish population;

(C) a transfer of water directly to a water treatment facility;

(D) a transfer of water that has been treated prior to the transfer into a water body; or

(E) a transfer of water from a reservoir or through a dam to address flood control or to meet water supply requirements or environmental flow purposes, provided that a person making a transfer of water described by this paragraph from a body of water in which there is a known exotic harmful or potentially harmful fish or shellfish population notifies the department annually in writing before the proposed transfer occurs.

### **§ 66.0071. Removal of Harmful Aquatic Plants**

On leaving any public or private body of water in this state, a person shall immediately remove and lawfully dispose of any exotic aquatic plant on the list of prohibited plants adopted under Section 66.0072 that is clinging or attached to the person's:

(1) vessel or watercraft; or

(2) trailer, motor vehicle, or other mobile device used to transport or launch a vessel or watercraft.

**§ 66.0072. Exotic Harmful or Potentially Harmful Aquatic Plants**

(a) In this section:

(1) “Exotic aquatic plant” means a nonindigenous aquatic plant that is not normally found in the public water of this state.

(2) “Public water” has the meaning assigned by Section 66.015.

(b) A person may not import, possess, sell, or place into the public water of this state an exotic harmful or potentially harmful aquatic plant except as authorized by commission rule or a permit issued by the department.

(c) The commission by rule shall adopt a list of exotic aquatic plants that may not be imported into or possessed in this state without a permit.

(d) The commission may enact an emergency rule as provided by Chapter 2001, Government Code, to add an exotic aquatic plant to the list of prohibited plants if the plant is determined to be harmful or potentially harmful.

(e) This section does not apply to any microalgae imported, possessed, used, or sold for biofuel, academic, or research and development purposes. The department shall consult with the Department of Agriculture as necessary to administer this section and may not adopt rules or permits for microalgae imported, possessed, used, or sold for biofuel, academic, or research and development purposes without written approval from the Department of Agriculture of the rules or permits.

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

(g) A water transfer described by this subsection is not a violation of this section. The department may not require a permit under this section for a water transfer described by this subsection. This subsection applies to a water transfer that meets the following criteria:

(1) the transfer is through a water supply system, including a related water conveyance, storage, or distribution facility;

(2) the transfer is undertaken by a utility owned by a political subdivision, including a water district or municipality; and

(3) the transfer is described by one or more of the following:

(A) a transfer from a water body in which there is no known exotic harmful or potentially harmful aquatic plant population;

(B) a transfer of water into a water body in which there is a known exotic harmful or potentially harmful aquatic plant population;

(C) a transfer of water directly to a water treatment facility;

(D) a transfer of water that has been treated prior to the transfer into a water body; or

(E) a transfer of water from a reservoir or through a dam to address flood control or to meet water supply requirements or environmental flow purposes, provided that a person making a transfer of water described by this paragraph from a body of water in which there is a known exotic harmful or potentially harmful aquatic plant population notifies the department annually in writing before the proposed transfer occurs.

### **§ 66.0073. Rules Requiring Water to be Drained**

(a) In this section:

(1) “Public water” has the meaning assigned by Section 66.015.

(2) “Salt water” has the meaning assigned by Section 66.001.

(3) “Vessel” has the meaning assigned by Section 31.003.

(b) The commission may adopt rules requiring a person leaving or approaching public water to drain from a vessel or portable container on board the vessel any water that has been collected from or has come in contact with public water. This subsection does not apply to salt water.

(c) When promulgating rules described by Subsection (b), the commission shall consider the effects on boaters, anglers, and local interests while maintaining the ability to prevent the spread of harmful or potentially harmful exotic fish, shellfish, and aquatic plants.

(d) If the commission adopts rules described by Subsection (b), an authorized employee of the department may inspect a vessel leaving or approaching public water, including any portable containers on board the vessel, for the presence of water. This subsection does not apply to a vessel that is on public water.

### **§ 66.015. Introduction of Fish, Shellfish, and Aquatic Plants**

(a) In this section, “public water” means the bays, estuaries, and water of the Gulf of Mexico within the jurisdiction of the state, and the rivers, streams, creeks, bayous, reservoirs, lakes, and portions of those waters where public access is available without discrimination.

(b) No person may place any species of fish, shellfish, or aquatic plant into the public water of the state without a permit issued by the department.

(c) The department shall establish rules and regulations governing the issuance of permits under this section.

(d) Subsection (b) of this section does not apply to native, nongame fish as defined by the commission, except in waters designated by the commission where threatened or endangered fish are present.

(e) A person violates this section if fish, shellfish, or aquatic plants the person possesses or has placed in nonpublic water escape into the public water of the state and the person does not hold a permit issued under this section.

(f) An employee of the department acting at the direction of the commission is exempt from this section.