



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Wm. J. Tucker, Executive Secretary
Honorable J. B. Arnold, Director
Coastal Division
Game, Fish and Oyster Commission
Austin, Texas

Gentlemen:

Opinion No. 0-5880
Re: Construing effect of Ch.
374, Acts 48th Leg. on
Art. 952L-11, Vernon's
Penal Code.

Article 952L-11, Vernon's Penal Code, adopted in
1941, in part provides:

"Sec. 1. It shall be unlawful to catch or
have in possession any shrimp from the inland salt
waters of this State during the period of time
from and between the 15th day of July and the 31st
day of August and during the period of time from
and between the 15th day of December and the 1st
day of March of any year.

"It shall also be unlawful to use, operate, or
possess any shrimp trawl in or on any of the salt
waters of this State except the Gulf of Mexico dur-
ing the period of time from and between the 15th
day of July and the 31st day of August and during
the period of time from and between the 15th day
of December and the 1st day of March of any year,
except as hereinafter provided in this Act.

". . . .

"Provided, it shall not be unlawful to have a
shrimp trawl on board any vessel licensed to use
or operate such a trawl during the period of time
from and between the 15th day of July and the 31st
day of August and during the period of time from
and between the 15th day of December and the 1st day
of March of any year when such vessel is at port
or in a channel while en route to or from open
waters."

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In 1943 the Regular Session of the 48th Legislature adopted Chapter 334, reading in part:

"Section 1. Hereafter, for a period of two (2) years or for the duration of the war, all the tidal waters of Aransas County except in the passes between Inland Bays and the Gulf of Mexico shall be open for commercial fishing for the taking of fish and shrimp by the use of any tackle now legal in any other coastal county in the State of Texas. Providing further it shall be legal to take shrimp in the waters of Mesquite Bay in Aransas County. Provided that the terms of this Act shall not apply to the waters of Copano Bay west of a line drawn from the east gable of Sorenson's Old Club House across to the island in the mouth of Mission Bay.

". . . .

"Sec. 3. Provided that all laws and parts of laws in conflict herewith shall be suspended for a period of two (2) years or until the end of the war."

There is an apparent conflict between these statutes, and you wish to be advised in what manner and to what extent the latter statute affects the closed season on shrimp in the tidal waters of Aransas County.

The 1941 statute is general in terms and applies to all the inland salt waters of the State. The 1943 statute is special and limited, both as to the area where applicable and as to its effective duration. The latter statute, in fact, takes specific notice of the closed season established by the general law and merely suspends its operation in Aransas County for a determinable period, and by its own terms would, at the end of two years or the end of the war, no longer be in effect.

It seems clear, therefore, that chapter 334 does in terms suspend in Aransas County the closed season established by Article 952L-11.

But it is equally clear that the privilege granted those catching shrimp in Aransas County during the closed season

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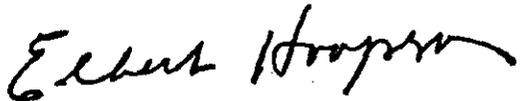
is limited and modified by the language of Chapter 334. The condition imposed is that such taking of fish and shrimp must be "by the use of any tackle now legal in any other coastal county in the State of Texas." Stated in another way, those fishing in Aransas County are not authorized by the 1943 statute to use any tackle which is illegal during the closed season in any other coastal county.

It follows, for example, that one could not operate or use a shrimp trawl in Aransas County during the "closed season" as that term is defined by Article 952L-11, for the simple reason that it is made illegal in other coastal counties by the specific terms of the Article. This should be sufficient to illustrate our interpretation of the statute.

In brief, while we think Chapter 334 suspends in Aransas County the closed season on shrimp fixed by Article 952L-11, it does not have the effect of legalizing "the use of any tackle" prohibited by law during such closed season in any other coastal county.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By 
Elbert Hooper
Assistant

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