



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**JOHN BEN SHEPPERD  
ATTORNEY GENERAL**

July 11, 1955

Honorable W. J. Cutbirth, Jr.  
Assistant Executive Secretary  
Game and Fish Commission  
Austin, Texas

Letter Opinion No. MS-229

Re: Interpretation of House  
Bill 223, Acts of the  
54th Legislature, exempt-  
ing certain persons from  
noncommercial hunting  
and fishing licenses.

Dear Mr. Cutbirth:

Your request for the opinion of this office reads in part as follows:

"1. Are residents of this State who are sixty-five years of age or over and persons who are under sixteen years of age required to register and obtain from the Game and Fish Commission an exemption hunting license before hunting wild deer or wild turkey?

"2. If the answer to the first question is in the negative, are residents sixty-five years or over and persons under sixteen years of age required to attach a deer tag to all deer killed and, if so, how is the tag to be provided to such exempted persons?

"3. Is a citizen of this State under seventeen years of age and over sixteen years of age required to buy and pay for a regular resident hunting license before hunting deer or turkey or before hunting out of the county of his residence?"

House Bill 223, Acts of the 54th Legislature, codified as Article 4032c, Vernon's Civil Statutes, provides:

"An Act exempting all residents over a certain age and all persons under a certain age from payment of any fees for any noncommercial hunting or fishing license; repealing all laws in conflict; and declaring an emergency.

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

"Section 1. All residents of this State who are sixty-five (65) years of age or over and all persons who are under sixteen (16) years of age shall be entitled to all hunting and fishing privileges for which a commercial license is not required, without obtaining a license for such non-commercial privileges and without payment of any fee.

"Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

"Sec. 3. The fact that children and elderly persons are now required to pay fees for hunting and fishing licenses creates 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."

It is apparent from reading the caption and the emergency clause that it was the intention of the Legislature to exempt all persons under 16 years old and all residents over 65 years old from the payment of fees for noncommercial hunting and fishing licenses. However, Section 1 of the body of House Bill 223 not only exempts such persons from the payment of any fee, but also exempts such persons from acquiring a hunting or fishing license. Prior to the enactment of House Bill 223, some of the persons coming within its provisions were not required to obtain a license or pay a fee in some instances, while in other instances some of them were required to obtain a regular license which was issued upon payment of a fee. In certain circumstances, however, all those who were exempt from the regular license requirements were required to obtain an "exemption" license which was issued without payment of any fee. Art. 4032b, V.C.S.; Art. 895b, V.P.C., Section 1, if valid, would not only amend the statutes as to the payment of fees, but would also amend the statute as to the obtaining of a license without the payment of fees.

Section 35 of Article III of the Constitution of Texas provides:

"No bill, (except general appropriation bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated) shall contain more than one subject, which shall be

expressed in its title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof, as shall not be so expressed." (Emphasis ours.)

It is our opinion that the caption gives notice of the provision in the body of the bill exempting the enumerated classes from the license and fee requirements with respect to those licenses which are issued only upon payment of a fee. Where the payment of the fee is an integral part of the issuance of the license, it is reasonable to assume from the statement in the caption that the abolishment of the fee requirement carries with it the abolishment of the license requirement also. But it is our further opinion that the caption does not give notice of the intent to exempt persons from obtaining a license for which no fee is required and that House Bill 223 is void in so far as it attempts to grant this exemption, being in violation of Section 35 of Article III of the Constitution. However, this does not affect the remaining provisions of the Act since, as above noted, it is apparent that it was the intention of the Legislature to exempt persons from paying the fees, and, therefore, the Legislature would have enacted House Bill 223 with the void exemption excluded.

Section 9 of Article 895b, V.P.C., requires that all persons exempt from payment of a hunting license fee obtain an exemption license before hunting deer or turkey. The exemptions contained in Section 9 should now be read in the light of the further exemptions accorded in House Bill 223. You are therefore advised that residents of this State who are 65 years or over and persons who are under 16 years of age should register and obtain from the Game and Fish Commission an exemption hunting license before hunting wild deer or wild turkey. Likewise, you are advised that such persons are required to attach a deer tag to all deer killed. Even if the full subject matter of the body of House Bill 223 had been expressed in the caption, the bill would not have repealed the provisions in Article 895b requiring attachment of deer tags and it would have been necessary for the Game and Fish Commission, under its rule making power, to provide the method for the issuance of deer tags to the classes exempt in House Bill 223. Since the bill was ineffectual to repeal the provisions relating to the issuance of exemption licenses, the deer tags should be issued in conjunction with the exemption licenses in the manner provided in Article 895b.

In answer to your third question, it is our opinion that House Bill 223 does not repeal the provision in Section

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9 of Article 895b which exempts citizens of this State who are under 17 years of age from payment of the fee for a hunting license. In exempting all persons under 16 and all residents over 65, House Bill 223 repealed all conflicting statutes which imposed license fees on these exempt classes, but it did not either expressly or by necessary implication require all persons between 16 and 65 to obtain a license or pay a fee. The purpose of the bill was to broaden the exemptions, not to restrict any exemptions granted by other statutes. It is our opinion that House Bill 223 does not repeal any other statute granting other exemptions. We therefore answer your third question in the negative.

APPROVED:

John Davenport  
Reviewer

John Atchison  
Reviewer

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John Ben Shepperd  
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Yours very truly,

JOHN BEN SHEPPERD  
Attorney General

By *Mary K. Wall*  
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