



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**CRAWFORD C. MARTIN  
ATTORNEY GENERAL**

October 9, 1969

Honorable J. R. Singleton  
Executive Director  
Parks and Wildlife Department  
John H. Reagan Building  
Austin, Texas 78701

Opinion No. M-487

Re: House Bill 1333 and  
Senate Bill 170, Acts  
61st Leg., R.S. 1969,  
Ch. 599 and 657, con-  
cerning the possession  
and sale of alligators  
and alligator hides.

Dear Mr. Singleton:

You have requested an opinion from this office relating to the Acts designated above.

House Bill No. 1333 (Acts 61st Leg., R.S. 1969, Ch. 599, p. 1788) was passed by the House May 15, 1969, and by the Senate May 22, 1969. It was approved by the Governor June 10, 1969. The pertinent portion of this Act reads:

"Section 1. Section 1, Chapter 144, Acts of 57th Legislature, Regular Session, 1961, as amended by Section 1, Chapter 418, Acts of the 59th Legislature, Regular Session, 1965, is amended to read as follows:

'Section 1. No person may possess, take, hunt, shoot, trap, kill, buy or sell, or attempt to take, shoot, trap, kill, buy, or sell an alligator in Chambers County before September 1, 1975.'

Senate Bill No. 170 (Acts 61st Leg., R.S. 1969, Ch. 657, p. 1957) was passed by the Senate March 18, 1969. The House passed this Bill May 22, 1969, with an amendment, and the Senate concurred in the House amendment May 23, 1969. It was approved by the Governor June 12, 1969. Pertinent portions of this Act provide as follows:

"Section 1. No person may take, catch, kill, buy, or sell, or attempt to take, catch, kill, buy, or sell, alligators or alligator hides, or may possess an alligator or its hide, in this state, except that nothing in this law shall

prohibit the possession of such alligator hide in the form of a final processed and manufactured product.

"Section 2. This Act does not prohibit the taking and possession of alligators or hides as provided by Article 913, Penal Code of Texas, 1925.

"Section 3. Any person who shall have in his possession or control any live alligators or hides at the effective date of this Act shall have until January 1, 1970 to legally dispose of the same.

"Section 4. A person who violates this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25.00 nor more than \$200.00.

"Section 5. . . .Chapter 144, Acts of the 57th Legislature, Regular Session, 1961, as amended by Chapter 418, Acts of the 59th Legislature, Regular Session, 1965; . . . are repealed."

1. You first ask which of these two Acts is controlling in Chambers County.

As properly stated in your letter, H.B. 1333 amended an earlier Act to extend the moratorium on the taking of alligators in Chambers County to 1975, while S.B. 170 provides similar protection for alligators in every county in the State and has no limited term.

S.B. 170 was finally passed one day later than H.B. 1333. Also Section 5 of S.B. 170 specifically repealed the prior Act which had been amended by H.B. 1333.

Therefore, in answer to your first inquiry, it is our opinion that S.B. 170 is the controlling Act in Chambers County.

2. You next ask how alligators and hides may be legally disposed of prior to January 1, 1970, as provided in Section 3 of S.B. 170.

In connection with your second question, you state that the Department has taken the position that as legal methods

of such disposition the alligators and hides could be sold through commercial channels or given to zoological parks holding permits under Article 913, Vernon's Penal Code, or released into the wild.

S.B. 170 became effective September 1, 1969; therefore, it is now illegal to possess, kill, buy or sell an alligator, or an alligator hide, in this State, except as provided in Article 913, and except further to possess alligator hides in the form of a final processed and manufactured product, as provided for in Section 1 of this Act. The four-month moratorium merely permits divestiture of possession prior to January 1, 1970, and does not permit the killing of an alligator, the sale of an alligator, or the possession of an alligator hide in this State except as above stated.

Thus, in reply to your second question, a person in possession of an alligator or hide may legally dispose of the same prior to January 1, 1970, by releasing the alligator into its wild natural habitat, by gift or sale in a state where it is not illegal to sell, purchase or possess the same, or by way of gift to the holder of a zoological permit as provided by Article 913.

3. You next ask whether you may assume that after January 1, 1970, there would be no legal means of disposing of an alligator or hide in this State.

In the absence of further legislation, and except for the provisions of Article 913, and Section 1 of S.B. 170, there will be no legal means of disposing of an alligator or hide in this State after January 1, 1970.

4. Your last question asks whether alligators which had been lawfully reduced to possession on or before August 31, 1969, are to be considered as property of the State and subject to the conditions of S.B. 170 on September 1, 1969, and thereafter.

The State, as trustee for the people, may exercise its power to enact regulations for the protection of wildlife, and as a means of preventing the evasion of such laws, extend its regulation to include wildlife that may have been lawfully taken or which had been raised in captivity. Cummings v. Commonwealth, 255 S.W.2d 997 (Ky.Appls, 1953).

Therefore, alligators which had been lawfully reduced to possession on or before August 31, 1969, became subject to the provisions of S.B. 170 on and after September 1, 1969,

and under control of the State as a protected specie of wildlife.

S U M M A R Y

S.B. 170, Acts 61st Leg., R.S. 1969, Ch. 657 p. 1957, specifically repealed the Act amended by H.B. 1333, Acts 61st Leg., R.S. 1969, Ch. 599, p. 1788, extending the moratorium on the taking of alligators in Chambers County; thus, S.B. 170 is the controlling Act in that County relating to alligators.

Under the provisions of Section 3 of S.B. 170 a person in possession of an alligator or hide may legally dispose of the same prior to January 1, 1970, by releasing the alligator into its wild natural habitat, by gift or sale into a state where the sale, purchase or possession of same is not illegal, or by way of a gift to the holder of a zoological permit as provided by Article 913, Vernon's Penal Code.

In the absence of further legislation, and except for the provisions of Article 913, Vernon's Penal Code, and Section 1 of S.B. 170, there will be no legal means of disposing of an alligator or hide in this State after January 1, 1970.

Alligators which had been lawfully reduced to possession on or before August 31, 1969, became subject to the provisions of S.B. 170 on and after September 1, 1969, and under control of the State as a protected specie of wildlife.

Very truly yours,



CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by Monroe Clayton  
and Sam L. Jones, Jr.  
Assistant Attorneys General

APPROVED:  
OPINION COMMITTEE

Kerns Taylor, Chairman  
George Kelton, Vice-Chairman

Richard Chote  
John Banks  
Wardlow Lane  
Vince Taylor

MEADE F. GRIFFIN  
Staff Legal Assistant

HAWTHORNE PHILLIPS  
Executive Assistant

NOLA WHITE  
First Assistant