



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

September 25, 1959

Honorable Howard D. Dodgen
Executive Secretary
Game & Fish Commission
Austin, Texas

Opinion No. WW-710

Re: May shrimp trawls larger than
10 feet be used for taking legal
size shrimp in Carancahua Bay,
Matagorda County?

Dear Mr. Dodgen:

Your request for an opinion reads, in part, as follows:

"Section 1 of House Bill 12 of the Regular Session of the Fifty-sixth Legislature establishes the purpose and scope of the Texas Shrimp Conservation Act.

"The question has arisen as to whether or not this Act, because of this section, has repealed the former special law which prohibits shrimping in Carancahua Bay in Matagorda County, Texas, except for the use of a small trawl for taking bait.

". . ."

Section 1 of the Texas Shrimp Conservation Act, Chapter 187, Acts 56th Leg. 1959, reads as follows:

". . . it is further declared by the Legislature of Texas to be the public policy of this State that any and all laws, acts, bills, rules, regulations, proclamations or orders relating to shrimp or the shrimp industry shall be carried out under this Act, any other provision of the law to the contrary notwithstanding; provided, however, nothing in this Act shall be construed to affect or repeal any existing laws that close any bay or other area of the inside waters to the taking or catching of shrimp throughout the entire year". (Emphasis added.)

H. B. 744, ch. 66, Acts 46th Leg., 1939, as amended in part by H. B. 820, Acts 47th Leg., 1941, as amended by H. B. 192, ch. 159, Acts 55th Leg., Regular Session 1957, made it unlawful, among other things, to catch shrimp, with the exception of a minnow seine or bait trawl of not more than 10 feet in width at its mouth for catching bait, in Calhoun, Matagorda and Jackson Counties.

Honorable Howard D. Dodgen, Page 2. (WW-710)

For H. B. 744 to be included in the exceptions to Section 1, it must be found that it closed the area involved to the taking or catching of shrimp. Sec. 6 of H. B. 12 states:

"Sec. 6.(a) It shall be unlawful at any time except for a Commercial Bay-Bait Shrimp Boat operator during the period from August 15th through December 15th, both dates inclusive, of each year (said period being designated as the 'open season' for said inside waters for any such Commercial Bay-Bait Shrimp Boat operators) for any person (except for catching bait shrimp as otherwise herein provided) to take or catch, or to attempt to take or catch, shrimp of any species or size . . . provided, however, it shall be lawful for any commercial Bay-Bait Shrimp Boat operator to take, within the inside waters, . . . not to exceed more than a total of two hundred fifty (250) pounds of heads-on shrimp . . . per boat per calendar day, during the closed season of the inside waters, . . ." (Emphasis added.)

It can be seen that using the terminology of H. B. 12 an area is not closed to the taking of bait shrimp even during the closed season.

Upon looking over the general and special statutes of Texas on shrimp, it was noted that there are no laws that close any bays or other areas of the inside waters of this State to the taking or catching of shrimp throughout the entire year, if you include the taking of bait shrimp:

Since this statute should receive a reasonable construction, and we must assume the Legislature would not do a meaningless thing, Section 1 of H. B. 12 must refer to a closed season as contained in Sec. 6(a) of H. B. 12. See Bizzelle v. State, 116 S.W. 2d 385, 134 Tex. Cr. R. 467 (1938), Walker v. Koger, 99 S.W.2d 1034 (1936) error dis., or Singer v. Schoenfeld, 269 S.W.2d 561, ref. n.r.e.

It follows therefore that Carancahua Bay is still closed to shrimp-ing except for the use of minnow seines and bait trawls for taking bait.

SUMMARY

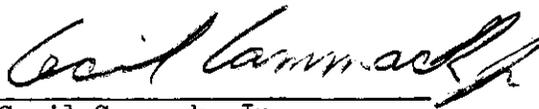
Shrimp trawls larger than 10 feet may not be used for taking legal size shrimp

Honorable Howard D. Dodgen, Page 3. (WW-710)

in Carancahua Bay, Matagorda County.

Yours very truly,

WILL WILSON
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By 
Cecil Cammack, Jr.
Assistant

CC:aw

APPROVED:

OPINION COMMITTEE:

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REVIEWED FOR THE ATTORNEY GENERAL

BY:

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