



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**CRAWFORD C. MARTIN  
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June 5, 1972

Honorable James U. Cross  
Executive Director  
Texas Parks & Wildlife Dept.  
John H. Reagan Bldg.  
Austin, Texas 78701

Opinion No. M-1135

Re: Whether a licensed  
wholesale fish dealer  
may import black bass  
from Mexico for sale  
in Texas without deal-  
ing through a licensed  
custom broker, and  
related questions.

Dear Mr. Cross:

This is in response to the following inquiries from your office:

1. "Is it lawful for a licensed wholesale fish dealer to import black bass from the Republic of Mexico for sale in El Paso County without dealing through a licensed custom house broker?"

2. "Assuming that it is lawful for a licensed wholesale fish dealer to import black bass, are the bass imported by such dealer required to be tagged under the provisions of Article 978e-1, Texas Penal Code?"

3. "Under the provisions of Article 978e-1, Texas Penal Code, can a licensed wholesale fish dealer apply for and obtain tags in the same manner as a licensed custom house broker?"

Article 978e, Texas Penal Code states in part:

"It shall be unlawful for any person, firm, or corporation, or their agents, to buy or sell, or offer for sale, or offer to buy, or have in his or their possession for sale, or carry, transport, or ship for the purpose of

sale, barter, or exchange, any fresh water crappie, or bass within the State of Texas."

Article 978e-1, Texas Penal Code, deals with the sale of imported black bass in El Paso County, Texas, under certain conditions and reads as follows:

"(a) The sale in El Paso County, Texas, of black bass imported from without the United States, which were caught in inland waters of a foreign country but not from international waters of the United States and such foreign country, shall be lawful, so long as the taking of these fish for sale is permitted in the country from which they are imported. No person shall sell or attempt to sell any such black bass in El Paso County, Texas, however, unless the fish bear a properly attached tag as provided herein.

(b) Any licensed custom house broker who desires to handle the importation of black bass for sale in El Paso County, Texas, shall notify the Texas Game and Fish Commission, and the Commission shall assign the broker a permanent record number. The Commission shall manufacture or cause to be manufactured, on request by a broker, any desired number of metal tags. The cost of manufacturing these tags shall be paid by the broker who requests them, and each tag shall bear the broker's permanent record number and a separate number to identify the tag. One of these tags shall be attached to the gill, dorsal fin or tail of each black bass to be sold in El Paso County, Texas.

(c) Any person who sells or attempts to sell a black bass in El Paso County, Texas, which does not bear a properly attached tag shall be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200)."

The Legislature in enacting Article 978e-1, has permitted the sale of imported black bass in El Paso County, Texas, as an

exception to the general provisions of Article 978e, provided the fish are tagged according to the provisions of the act. These provisions as set out in paragraph (b) authorize only custom house brokers to apply for and obtain tags from the Parks and Wildlife Department, and under paragraph (c) any person who sells or attempts to sell a black bass which does not have a properly attached tag shall be fined.

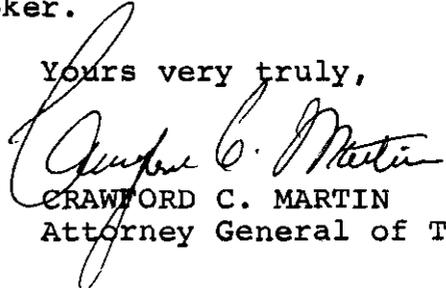
By designating custom house brokers to the exclusion of others, it would appear the Legislature considered such a precaution and condition necessary for effective enforcement and control of the sale of black bass in El Paso County, Texas.

It is therefore our opinion that it is unlawful for a licensed wholesale fish dealer to import black bass from the Republic of Mexico for sale in El Paso County without dealing through a licensed custom house broker and without said fish being tagged according to the provisions of Article 978e-1. We also conclude that unless a licensed wholesale fish dealer is also a licensed custom house broker, he may not apply for and obtain tags in the same manner as a licensed custom house broker.

S U M M A R Y

It is unlawful for a licensed wholesale fish dealer to import black bass from the Republic of Mexico for sale in El Paso, County, Texas, without dealing through a licensed custom house broker and without said fish being tagged according to the provisions of Article 978e-1, Texas Penal Code. Further, unless a licensed wholesale fish dealer is also a licensed custom house broker, he may not apply for and obtain tags in the same manner as a licensed custom house broker.

Yours very truly,

  
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Attorney General of Texas

Hon. James U. Cross, page 4 (M-1135)

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