



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL  
ATTORNEY GENERAL

October 14, 1977

Honorable Clayton T. Garrison                      Opinion No. H-1072  
Executive Director  
Texas Parks & Wildlife Department      Re: Taking of shrimp  
4200 Smith School Road                      within one mile of a  
Austin, Texas 78744                              city.

Dear Mr. Garrison:

You have requested our opinion regarding the use of shrimp trawls under certain provisions of the Parks and Wildlife Code. Section 136.043 of the Code states, in pertinent part:

- (a) No person may attempt to take any fish, shrimp, green turtle, loggerhead, or terrapin by the use of a seine, drag, fyke, set-net, trammel net, trap, dam, or weir from a bay or other navigable water in Chambers County within one mile of the limits of a city.

Sections 184.023, 201.012 and 335.023 make the same provisions with respect to Galveston, Harris and Victoria counties, respectively.

Although, prior to 1973, there was some question as to whether the predecessor statute of these regulations, article 947 of the former Penal Code, had been superseded by article 4075b, V.T.C.S., the Texas Shrimp Conservation Act, any doubt was resolved by the re-enactment of article 947 in the 63rd Legislature, Acts 1973, 63rd Leg., ch. 220, at 515. See Attorney General Opinion H-112 (1973). In 1975, these provisions of article 947, now restricted in application to Chambers, Galveston, Harris and Victoria counties, were transferred to the Parks and Wildlife Code.

The statutes under consideration do not specifically prohibit the taking of shrimp by means of a trawl, which has been defined as

a dragnet; specifically, a large conical net with a device for keeping its mouth open that is dragged along the sea bottom. . . .

Webster's Third New International Dictionary 2433 (1961). However, the statutes do prohibit the use of a drag, the applicable definition of which is

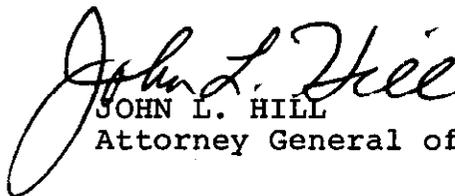
a device (as a . . . net or scoop) for dragging under water along the bottom or through the water below the surface to . . . obtain, or recover objects.

Id. at 684. A dragnet is "a net that is specially designed to be drawn along the bottom of a body of water." Id. at 684. It would thus appear that the word "drag" is of broader meaning than "dragnet" or "trawl"; in our view the latter terms would be held to be within the definition of "drag." Accordingly, it is our opinion that the statutes render it unlawful to take shrimp from any water in Chambers, Galveston, Harris and Victoria Counties within one mile of a city by use of a trawl as defined above.

S U M M A R Y

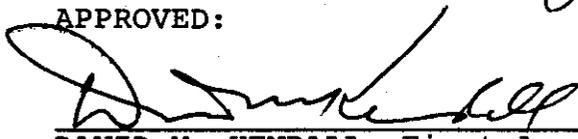
Under sections 136.043, 184.023, 201.012 and 335.023 of the Parks and Wildlife Code, it is unlawful to take shrimp from any water in Chambers, Galveston, Harris and Victoria Counties, within one mile of a city, by use of a trawl.

Very truly yours,

  
JOHN L. HILL

Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee

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