

FISHING WITH ELECTRICITY — A LAW ENFORCEMENT PROBLEM

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Abstract: With the electronic age, there has come a small electrical fishing device no larger than an ice cube. This new electronic telephone, in the hands of dishonest fishermen, has created a challenge for the Texas Game Warden. A challenge that has resulted in research and law change.

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Fishing with electricity has been a thorn in the side of Texas Game Wardens since the mid-40's. Shortly after World War II, telephone companies began updating rural telephone exchanges. This resulted in great numbers of crank-type telephones that were of no use to the industry. American ingenuity and man's desire to catch fish soon perfected the process that came to be known as "telephoning."

The year 1955 saw legislation to control fishing by electricity. H. B. 633, Ch. 163, Section 1. of the 54th Legislature read: "It shall be unlawful for any person at any time of the year to catch or attempt to catch or obtain fish by the aid of what is commonly known as 'telephoning' or by using any other electricity-producing apparatus designed for shocking fish. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine in any sum of not less than Twenty-five (\$25) nor more than Two Hundred Dollars (\$200). The possession of any such equipment in any boat or along any bank or shore of any of the rivers, creeks, lakes and bays of this State shall be prima facie evidence that the person found in possession of such electrical equipment is violating the provision of this Act. Section 2. All laws or parts of laws, both general and special, in conflict herewith are hereby repealed to the extent of such conflict.

With the 70's came the electronic age. The integrated circuit was perfected, enabling components to be reduced to microscopic size. We saw the calculator shrink to pocket size with wristwatches to the size of a quarter, capable of displaying civilian and/or military time, lapse time, stopwatch, day, date, month and year. Toy manufacturers began marketing a wide variety of electronic games and educational equipment.

It should not come as a surprise when I tell you that in 1977 a strange, minute device was discovered being used by unscrupulous fishermen. Where these new "telephones" originated and when they were first used is unknown to Law Enforcement. We do know, however, that their numbers have increased to epidemic proportions.

There are many ways to conceal the "telephone" and elaborate schemes have been devised to outsmart the Game Wardens. It is very difficult to locate this tiny device, once it has been hidden in a boat or on an individual. Texas Game Wardens have discovered these "telephones" inside tackle boxes, in battery boxes, under the dash of motor vehicles, and inside clothing and boots.

The size and shape of the fishing devices is limited only to the imagination of the builder. There have been devices confiscated as small as 1 in in diameter. They are built in pill bottles, flashlights, plug jacks, ice cube traps or snuff cans.

By 1980, the Law Enforcement Division realized it was facing a snowballing situation with electronic "telephones." It seemed they were being built in all parts of the state, and they were sold wherever people gathered; with trade days, first Mondays and trader's villages being the most popular places. Information traveled by word of mouth where the devices could be purchased and how to use them.

It was decided that before present laws could be properly enforced or new legislation could be sought, several questions needed to be answered: 1) What is the electronic "telephone"? 2) What makes it work? 3) Where will it work? 4) When will it work? 5) How large an area will it cover? 6) What fish will it affect? 7) How many are being built? 8) How much do they cost? In an effort to answer as many of these questions as possible, permits for research and study were issued to Regional Law Enforcement Directors in north and south Texas. Results from these tests were the same in both geographical areas.

The "telephone" or electronic fishing device works best in waters less than 15 ft. deep and will develop a field of 30 to 40 ft. in diameter. The "telephone" is ineffective in water less than 60 F and tends to work much better in water 80 F and above. Results are not good in clear water. This makes telephoning popular in Texas from mid-May to late September.

For some unknown reason, the electronic telephone works best on flathead catfish. Channel and blue cat will come to the surface but tend to skip and flounce out of the field and then dive. The flathead will give off some air bubbles, then surface, sometimes on its side, sometimes belly-up. The fish appears to be unconscious. If the telephone is disconnected, the fish will regain consciousness and dive out of sight. There is no apparent permanent damage to the fish. Further research is planned to determine the number of cycles per second needed to stun different fish species.

A schematic of a device was taken to an electrical engineer. He was able to tell us that by using the electronic components, the designer had duplicated the old crank telephone ringer. With the use of an integrated circuit, some transistors and resistors, what used to be the size of the football is now the size of an ice cube. When properly connected to a 12 volt battery, this device emits 9-12 volts AC, 18-20 cycles per second. Most devices have been of a 3-wire design, 1 wire connected to the positive side of a 12 volt battery, the 2nd wire to the negative side and the 3rd wire connects to a lead wire which is placed in the water. A 2nd lead wire is connected to the negative post of the battery and placed in the water.

In attempting to establish the number of devices being produced, the Texas Parks and Wildlife Department contacted a large electronic parts company in north Texas. With their assistance, the department was able to document the following information: On June 12, 1980, subject number 1 purchased enough parts to build 50 units. On June 13, 1980, subject number 2 purchased parts for 40 units. On July 1, 1980, subject number 3 purchased parts for 25 units, for a total of 115 units from 1 company in only 14 working days.

The cost of the parts per unit is less than \$6. The retail price per unit will average \$100. It is easy to see, with a mark up of over 16 times the investment, why the telephones are being built and sold.

Law Enforcement personnel are divided into 10 regions statewide. During the months of June and July, 1980, the Wardens in Region II issued 22 citations for fishing with electricity-producing devices, only 2 of which were the conventional crank telephones. Twenty citations involved electronic devices. If the fishermen are careful, it is extremely difficult to observe them from any distance and determine that they are using a "telephone." One case in Region II last year involved a fancy bass boat rigged for catfish telephoning by the installation of an additional battery box which contained the telephone. This box was installed in the same compartment as the regular battery box. Several wires came out of the box and went directly into the boat's wiring harness. At first glance, it looked very much like a rig that would furnish power for the trolling motor; however, a closer inspection revealed a positive wire connected to a switch on the dash of the boat. From the switch the wire connected to a reostat then to a volt meter and terminated at the power anchor. The inspection also revealed a negative wire connected to the drain plug of the boat. Upon arriving at his favorite fishing place, the fisherman could drop the power anchor with the flip of a switch, turn on the telephone with the flip of another switch, adjust the reostat for the proper voltage and he would be in business. Sitting back with rod and reel in hand, he appeared just like any other sport fisherman.

It is not uncommon for fishermen using 2 boats to work together while telephoning. One boat is used to telephone and the fishermen in the second boat will dip the fish. If a Game Warden should appear, the boats will take off in separate directions, making it virtually impossible for the Game Warden to catch and confiscate both the fish and the telephone.

The ways to conceal the electronic telephone and connecting lead wires are too numerous to mention in this article. The dishonest fisherman uses his imagination and creativity to devise methods of concealment. The Game Warden must remain alert allowing his curious eye and suspicious mind to tell him when something is not as it appears.

Game Wardens have become more concerned each year with the wide-spread use of electronic "telephones." With information furnished by field personnel, the Law Enforcement Staff was able to give concise and informative testimony to Legislative committees during the past session. Because of this testimony, the 67th Legislature has seen fit to arm Law Enforcement with a new law that will prohibit the building, possession, sale or use of an electricity producing device. The new law reads as follows:

"(a) Except as provided by Subsection (d) of this section, no person may catch fish by using an electricity-producing device designed to shock fish.

"(b) No person may manufacture or sell an electricity-producing device designed to shock fish.

"(c) Except as provided by Subsection (d) of this section, no person may possess an electricity-producing device commonly used to shock fish. The possession of an electricity-producing device commonly used to shock fish, in a boat or within ½ mi. of any water of this state, is a violation of this section by the person in possession of the device.

"(d) This section does not prohibit the use of an electricity-producing device of not more than 3 volts connected to a shrimp trawl used by an operator of a licensed commercial gulf shrimp boat in the outside water of this state at

depths of more than 7 fathoms. To qualify under this exemption, the commercial gulf shrimp boat the trawl must be operating in compliance with the provisions of Chapter 77 of this code relating to the taking of shrimp.

“(e) An electricity-producing device used or possessed in violation of this section is a nuisance, and an officer of the department who has probable cause to believe that a device is used or possessed in violation of this section may search a boat, vehicle, campsite, or person and seize the device and hold it as evidence for the trial of the person in possession of the device. If the person is found guilty of a violation of this section, the department shall be responsible for the destruction of the device unless it can be utilized by the department for research purposes, or upon request the device may be released to a state-supported college or university for use in marine or aquatic research. An officer of the department who seizes or destroys a device is immune from liability for any damages resulting from seizure or destruction, and the department is likewise immune from liability for any damages resulting from seizure, destruction, or disposition thereof.

“(f) A person who violates this section is guilty of a Class C misdemeanor, except that:

(1) if it is shown at the trial of the defendant that he has been convicted of a violation of this section once before during the 5-year period ending on the day that the offense charged was committed, he shall be guilty of a Class B misdemeanor; or

(2) if it is shown at the trial of the defendant that he has been convicted of a violation of this section 2 or more previous times and that 1 of the previous convictions occurred during the 10-year period ending on the day that the offense charged was committed, he shall be guilty of a Class A misdemeanor.

“(g) for the purpose of Subsection (f) of this section, an offense is committed on the day that the last element of the offense occurred or was committed. If at the trial of the defendant facts are shown that satisfy the requirements of both Subdivisions (1) and (2) of Subsection (f) of this section, he shall be punished under Subdivision (2) of Subsection (f) of this section.

“(h) Each fish taken or possessed in violation of this section constitutes a separate offense.”

Class C Misdemeanor: An individual adjudged guilty of a Class C misdemeanor shall be punished by a fine not to exceed \$200.

Class B Misdemeanor: An individual adjudged guilty of a Class B misdemeanor shall be punished by (1) a fine not to exceed \$1,000 (2) confinement in jail for a term not to exceed 180 days; or (3) both such fine and imprisonment.

Class A Misdemeanor: Any individual adjudged guilty of a Class A misdemeanor shall be punished by (1) a fine not to exceed \$2,000 (2) confinement in jail for a term not to exceed 1 year; or (3) both such fine and imprisonment.

Texas Game Wardens have confiscated electronic telephones in all parts of the state, from deep south Texas along the border of Mexico to the Oklahoma line on Lake Texoma, from west Texas to our east Texas lakes adjoining Louisiana. In view of their wide-spread use in Texas, if they are not in your state yet, get ready, most likely they are on their way.