

BILL ANALYSIS

C.S.H.B. 1189
By: Guillen
Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that oysters play an important role in the estuary waters and economy of the state. Oysters are filter feeders that help improve water quality and, as a popular culinary ingredient and dish, are a valuable and important part of the state's commercial fishing industry. The parties further note that an oyster license moratorium program was established several years ago in response to concerns of overharvesting. C.S.H.B. 1189 seeks to address certain concerns with the oyster industry.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 1189 amends the Parks and Wildlife Code to include a violation relating to oyster size limits among the violations involving a vessel licensed as a commercial oyster boat for which each person on the vessel is responsible.

C.S.H.B. 1189 authorizes the Parks and Wildlife Commission by proclamation to establish a vessel monitoring system for commercial oyster boats. The bill requires the Parks and Wildlife Department (TPWD) to consult with commercial oyster boat license holders concerning establishment of such a system before the commission issues the proclamation.

C.S.H.B. 1189 requires TPWD to implement a license buyback program for commercial oyster boat licenses as part of the oyster license moratorium program. The bill requires the commission by rule to establish criteria, using reasonable classifications, for TPWD's use in selecting licenses to be purchased and requires TPWD or the executive director of TPWD to consult with the oyster license moratorium review board concerning establishment of the criteria. The bill requires TPWD to retire each license purchased under the buyback program until the commission finds that management of the oyster fishery allows reissue of those licenses through auction or lottery. The bill requires the commission to consider the social and economic viability of the oyster industry and input from the oyster license moratorium review board regarding the reissue of the licenses through auction or lottery.

C.S.H.B. 1189 requires TPWD to set aside an amount determined by commission rule that is at least 20 percent of the fees from commercial oyster boat licenses to be used only for the purpose of buying back commercial oyster boat licenses from willing license holders and requires that

money to be sent to the comptroller of public accounts for deposit to the credit of the game, fish, and water safety account. The bill authorizes TPWD to solicit and accept grants and donations of money or materials from private or public sources for the purpose of buying back commercial oyster boat licenses from willing license holders. The bill establishes that money to be used for the purpose of buying back commercial oyster boat licenses is not subject to Government Code provisions governing the use of dedicated revenue.

C.S.H.B. 1189 establishes that a proclamation of the commission under statutory provisions relating to the oyster license moratorium program prevails over any conflicting statutory provision relating to oysters to the extent of the conflict. The bill sets out a temporary provision, set to expire September 1, 2019, to require TPWD, not later than November 1, 2018, to report to the governor and each member of the legislature an overview of the administration and status of the oyster license buyback program, including the biological, sociological, and economic effects of the program.

C.S.H.B. 1189 requires the commission to adopt any rules required to implement the bill's provisions relating to the license buyback program, the prevailing authority of certain commission proclamations, and the report to the legislature not later than June 1, 2016, and makes those bill provisions effective on that date.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1189 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 76.119(a), Parks and Wildlife Code, is amended to read as follows:

(a) If a vessel licensed as a commercial oyster boat is involved in a violation of this chapter, the captain of the vessel licensed as a commercial oyster boat is primarily responsible for the violation. A member of the crew of a vessel licensed as a commercial oyster boat is not guilty of a violation unless the member of the crew committed the violation against the captain's orders, except for a violation of Section 76.109, 76.112, or 76.116, in which case each person on the vessel is responsible for the violation.

No equivalent provision.

SECTION 2. Subchapter E, Chapter 76, Parks and Wildlife Code, is amended by adding Section 76.304 to read as follows:
Sec. 76.304. VESSEL MONITORING SYSTEM. (a) The commission by

proclamation may establish a vessel monitoring system for commercial oyster boats.

(b) Before the commission issues a proclamation under Subsection (a), the department shall consult with commercial oyster boat license holders concerning establishment of a vessel monitoring system.

SECTION 1. Subchapter F, Chapter 76, Parks and Wildlife Code, is amended by adding Sections 76.405, 76.406, and 76.407.

SECTION 2. The Parks and Wildlife Commission shall adopt any rules required to implement this Act not later than June 1, 2016.

SECTION 3.

This Act takes effect June 1, 2016.

SECTION 3. Same as introduced version.

SECTION 4. The Parks and Wildlife Commission shall adopt any rules required to implement Sections 76.405, 76.406, and 76.407, Parks and Wildlife Code, as added by this Act, not later than June 1, 2016.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2015.

(b) Sections 76.405, 76.406, and 76.407, Parks and Wildlife Code, as added by this Act, take effect June 1, 2016.