

SUBJECT: Regulating aquaculture

COMMITTEE: State Recreational Resources— favorable, with amendments

VOTE: 6 ayes — Kuempel, McCall, Horn, King, Longoria, Merritt

0 nays

3 absent — Hightower, Hilderbran, Palmer

SENATE VOTE: On final passage, April 18 — voice vote

WITNESSES: For — Kevin Daniels, Coastal Conservation Association; Fritz Jaenike; Richard Lowerre, Aransas County Commissioner's Court; Tim Moore, Fred Werkinthin, Jr., Texas Aquaculture Association

Against — None

BACKGROUND : The Department of Agriculture is responsible for licensing and regulating aquaculture businesses, also known as fish farming, in Texas and for the development and implementation of a plan for promoting aquaculture products, providing technical assistance to aquaculture operations, soliciting federal financial assistance, and providing coordinated support through agencies of higher education and other governmental entities.

The Texas Parks and Wildlife Department (TPWD) is responsible for introduction and use of exotic species (nonindigenous plants or animals) and for the health and welfare of native fish stocks and hatcheries.

The Texas Natural Resources Conservation Commission (TNRCC) regulates through permitting aquaculture wastewater discharge activities.

The aquaculture executive committee was statutorily established in 1989 to coordinate aquaculture activities in state agencies and consists of the chairman of the Parks and Wildlife Commission, the agriculture commissioner, and the commissioner of the General Land Office.

DIGEST: SB 1124 would transfer licensing duties from the Department of Agriculture to the Texas Animal Health Commission. The department and the commission could contract with state, federal or private entities. Owners of aquaculture licenses would have to maintain aquatic species shipment records in accordance with rules adopted by the Parks and Wildlife Department.

The bill also would abolish the aquaculture executive committee on September 1, 1998, and would require a joint study by the Texas Animal Health Commission, TNRCC and TPWD on the sources and transmission of disease to aquaculture facilities as a result of exposure to contamination, provide a strategy to minimize the effect of contamination, and include a plan to allow the seafood processing industry, educational institutions and others to help finance or contribute to the study.

The Texas Animal Health Commission, TNRCC and TPWD would have to enter into a memorandum of agreement for the regulation of aquaculture matters that requires TNRCC to provide a copy of the discharge permit application to the commission and TPWD, and for the three state agencies to appoint a three-member application review committee to ensure the proposed discharge would not affect a state bay, estuary or other waters. The three state agencies also would have to coordinate their regulatory enforcement efforts.

After discovering an occurrence of disease in a shrimp farm facility, the owner would have to notify the commission immediately, pursuant to commission rules, and if necessary, the commission would have to immediately notify and advise the TPWD and TNRCC. TNRCC would have to order a halt to all wastewater discharges or take other appropriate action.

The commission would have to provide to TPWD an aquaculture license application for review regarding possible adverse environmental consequences. TPWD and TNRCC could designate an area in a coastal county as unsuitable for the operation of a new shrimp aquaculture facility if the TPWD determined the facility would impose an adverse impact on aquatic resources according to criteria established by May 1, 1998, by the TNRCC.

For an aquaculture facility located in a county bordering on the Gulf of Mexico, the commission would have to require an applicant for a new shrimp aquaculture facility license to provide a siting report that described the existing environmental conditions at the proposed site, including aquatic habitat and the conditions of the waters of the state from which any diversion or discharge of water was planned. The commission would have to provide a copy of the license application and siting report to TNRCC and TPWD for consultation on the potential impact of the facility on the state's aquatic resources. The commission could deny a license application based on a potential adverse impact.

The bill would take effect September 1, 1997, would provide for the transfer of records, rules, personnel, equipment and related material, as necessary, among the Texas Department of Agriculture, Animal Health Commission, Texas Parks and Wildlife Department and the aquaculture executive committee.

**SUPPORTERS
SAY:**

SB 1124 would improve the regulation of a relatively new and emerging aquaculture industry by clarifying and coordinating state agency responsibilities and authority and by transferring licensing to the Animal Health Commission. The bill is based on recommendations of the Senate Natural Resources Committee interim study.

Texas is the largest producer of farm-raised shrimp in the U.S., and the catfish farm industry has exploded from 400 acres in 1960 to more than 161,000 acres in 1991. Expansion of the aquaculture industry is linked to the growing demand for seafood throughout the U.S., and the quality and quantity consistency that can be assured by a controlled environment. The growth has raised concerns about the impact of fish farms on the environment, specifically the volume and content of wastewater discharge, odors, and the negative impact of viruses, diseases or exotic species on native stock and chemical toxicity on state waters.

The Animal Health Commission is a better agency to regulate licensing because of its expertise in identifying and responding viruses and diseases in animals and because of conflict of interests that arise by requiring the same agency, Texas Department of Agriculture, to both regulate and promote the aquaculture industry.

The provisions in SB 1124 were developed as a cooperative effort by representatives of a number of groups, including aquaculture producers, shrimpers, environmentalists, and regulators.

OPPONENTS
SAY:

SB 1124 needs to give state agencies more authority to prohibit or shut down the operations or wastewater discharge of potentially dangerous or contaminated fish farms and to close current loopholes in the law that allow some fish farms to discharge wastewater into state waters without a state permit.

NOTES:

Committee amendment one would require the joint study to focus on the occurrence of shrimp diseases. Amendment two would require the Animal Health Commission to notify TPWD and TNRCC of a disease occurrence in an aquaculture facility. Amendment three would require the production of a siting report for license applications for shrimp farms on the Gulf of Mexico, and would allow TPWD to designate an area in a coastal county as unsuitable for the operation of a new aquaculture facility.

An amendment may be offered to require shrimp farms to obtain site-specific wastewater discharge permits and to authorize the commission, TNRCC and TPWD, acting under a memorandum of understanding, to set effluent limits of suspended solids in waste discharges to prevent adverse responses to aquatic organism and plants and to prevent conditions that could present a nuisance. The amendment may also prohibit an owner of a shrimp farm from discharging wastewater if an infectious agent was suspected to be present in the shrimp.