

- SUBJECT:** Enhancing penalties for certain oyster harvesting violations
- COMMITTEE:** Culture, Recreation and Tourism — favorable, without amendment
- VOTE:** 9 ayes — Cyrier, Martinez, Bucy, Gervin-Hawkins, Holland, Jarvis Johnson, Kacal, Morrison, Toth
- 0 nays
- WITNESSES:** For — Shane Bonnot, Coastal Conservation Association; John Shepperd, Texas Foundation for Conservation and Texas Coalition for Conservation; (*Registered, but did not testify:* David Sinclair, Game Warden Peace Officers Association; Evelyn Merz, Lone Star Chapter Sierra Club; Laura Huffman, The Nature Conservancy)
- Against — None
- On — Les Casterline and Robin Riechers, Texas Parks and Wildlife Department.
- BACKGROUND:** Sec. 76.101 requires that a person acquire a sport oyster boat license from the Texas Parks and Wildlife Department (TPWD) before harvesting oysters for noncommercial use, with a separate commercial license for commercial oyster harvesting.
- Sec. 76.109 prohibits the harvesting of oysters from public waters between sunset and sunrise.
- Sec. 76.115 allows the Texas Parks and Wildlife Commission (TPWC) to close an area to oyster harvesting if that area is overharvested or damaged or requires seeding or restocking. Sec. 76.116 prohibits the harvesting of oysters in areas that have been closed.
- Some have suggested that current penalties for the unauthorized harvesting of oysters are insufficient to act as a deterrent for offenses.

**DIGEST:** HB 2321 would enhance criminal penalties for the harvesting of undersized oysters and oysters from an area closed by the Texas Parks and Wildlife Commission (TPWC).

The bill would make harvesting oysters that were undersized or were from a closed area a class B parks and wildlife misdemeanor (up to 180 days in jail and/or a fine of \$200 to \$2,000) if the defendant had at least two previous convictions of either offense.

If a person who committed any oyster-related offense had a prior conviction for harvesting either undersized oysters or oysters from a closed area, the bill would increase the offense to a class B parks and wildlife misdemeanor from a class C parks and wildlife misdemeanor (a fine of \$25 to \$500) if during the commission of the offense:

- the person had a cargo of oysters in which 30 percent or more were undersized; or
- the person had harvested oysters from a closed area.

The bill would expand the scope of the above penalties from commercial harvesters to all violators.

The bill would increase from a class B parks and wildlife misdemeanor to a class A parks and wildlife misdemeanor (up to one year in jail and/or a fine of \$500 to \$4,000) any oyster-related violation if:

- the defendant engaged in commercial oystering;
- the violated regulation or provision related to the harvesting either of undersized oysters or oysters from a closed area; and
- the defendant had at least two previous convictions for harvesting either undersized oysters or from a closed area.

The bill would take effect September 1, 2019, and would apply to offenses committed on or after the effective date.