

BILL ANALYSIS

Senate Research Center

S.B. 1685
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Natural Resources
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As Filed

DIGEST

Currently, Texas law does not regulate certain actions associated with the oyster industry. S.B. 1685 would establish certain requirements for the oyster industry in order to protect the public and promote the industry.

PURPOSE

As proposed, S.B. 1685 regulate the oyster industry.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the comptroller of public accounts in SECTION 4 (Section 436.103(c), Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. DEFINITIONS. Defines “interim control plan for vibrio parahaemolyticus (ICPVp),” “interstate shellfish sanitation conference (ISSC),” and “national shellfish sanitation program (NSSP).”

SECTION 2. Amends Section 81.046, Health and Safety Code, by adding Subsection (e), to prohibit certain information regarding food borne illness and the investigation of it from being considered public information, but shall be released by the health authority or Texas Department of Health (department) upon written request to any licensed or certified member of the implicated industry. Authorizes the information related to food borne or suspected food borne illness to be released to protect public health only when a case control study has established an epidemiological link to an implicated food. Make a conforming change.

SECTION 3. Amends Sections 431.002 and 431.005, Health and Safety Code, as follows:

Sec. 431.002. DEFINITIONS. Defines “molluscan shellfish.”

Sec. 431.005. PROVISIONS REGARDING THE SALE OF FOOD, DRUGS, DEVICES, OR COSMETICS. Requires molluscan shellfish to be regulated under the provisions and rules of Chapter 436 of this code at all levels of the market chain from harvest to consumer.

SECTION 4. Amends Section 436.103, Health and Safety Code, to require a certified shellfish dealer who handles oysters taken from the waters of this state to pay the state a fee of \$1 for each barrel of oysters processed by the certified shellfish dealer. Provides that a barrel of oysters is equivalent to three one-hundred pound sacks of oysters. Provides that a dealer who packs oysters in sacks exceeding 110 pounds is liable for a penalty of \$5 per sack of those sacks found exceeding 110 pounds. Requires penalties to be payable under the same terms established in this section for payment of fees. Authorizes the department to suspend, upon certification by the comptroller that a fee or penalty is past due, until the fee or penalty is paid, the shellfish certificate or a certified shellfish dealer who fails to timely pay the fee or penalty in full. Authorizes the departments upon certification from the comptroller that a certified dealer has refused to pay a fee or penalty on written demand, to revoke the Certificate of Compliance of a certified dealer who refuses to pay a fee of penalty on written demand of the comptroller, rather than department. Authorizes the comptroller to adopt rules, forms, and procedures for submission of fees under this section. Requires fees and penalties collected under this section to be submitted to the comptroller. Requires the comptroller to report to the department monthly the fees and penalties submitted. Requires two percent of such fees, before any other allocation of the fees collected under this section is made, to be deposited in the state

treasury for the use of the comptroller in the administration and enforcement of this section. Requires the remainder of the fees to be deposited to the credit of the Oyster Sales account in the general revenue fund to be allocated each year for certain oyster-related activities. Provides that the provisions of Subtitles A and B, Tax Code, are applicable to the comptroller's administration, collection, and enforcement of this section to the same extent as if this were a tax imposed under Title 2 of the Tax Code.

SECTION 5. Amends Subchapter H, Health and Safety Code, by adding Section 436.104, as follows:

Sec. 436.104. OYSTER LEASE PROGRAM. Requires the department to conduct the necessary activities to allow production of oysters from private oyster leases during the month of May through October of each year. Sets forth certain requirements of the department for the oyster lease program.

SECTION 6. Amends Chapter 436I, Health and Safety Code, by adding Section 436.116, as follows:

Sec. 436.116. TEXAS OYSTER COUNCIL. Provides that there shall be a Texas Oyster Council (council). Requires the council to advise the Texas Board of Health (board) regarding certain items. Requires the council to establish procedures for certain actions. Requires the council to adhere to all laws pertaining to public meetings and to post meeting dates and agendas in the Texas Register. Requires the council to be composed of certain members. Provides that certain persons are not eligible for appointment as a public member. Requires the council to meet and elect a chairperson from its members and to conduct other such meetings as it may deem necessary to deal with matters brought before the council. Prohibits the council from providing compensation or reimbursement of expenses to its members. Provides that members will serve for a period of one year and may be reappointed at the conclusion of their term. Requires the Interstate Shellfish Sanitation Conference representative and the Texas A&M Sea Grant representative to be appointed by their respective organizations or agency.

SECTION 7. Amends Title 3, Agriculture Code, by adding Chapter 47, as follows:

CHAPTER 47. TEXAS OYSTER PROGRAM

Sec. 47.001. PROMOTION AND ADVERTISEMENT. Authorizes the Texas Department of Agriculture (TDA) to take certain actions regarding the promotion and advertisement of the Texas Oyster Industry. Authorizes TDA, following guidance of the Oyster Advisory Committee established in Section 47.002, to use a portion of the Oyster Sales Fee funds provided for administrative purposes.

Sec. 47.002. OYSTER ADVISORY COMMITTEE. Requires the commissioner of agriculture to appoint an Oyster Advisory Committee (advisory committee) to provide guidance and direction on the programs and activities established under this subchapter and expenditures of the funds appropriated for this subchapter. Requires members of the advisory committee to serve without compensation or reimbursement or expenses. Requires the advisory committee to meet and elect a chairperson from its members and to conduct other such meetings as it is necessary to provide guidance and direction to the TDA. Requires the advisory committee to be composed of nine members. Requires the advisory committee to develop certain by-laws. Sets forth the terms of the advisory committee members. Authorizes a person to continue to serve on the advisory committee at the conclusion of the person's term if reappointed.

SECTION 8. Amends Chapter 87C, Education Code, to authorize the Texas A&M University at Galveston, Marine Biology Department to support expansion and production of the oysters from private oyster leases during the months of May through October of each year and to study the possible impacts of conditions observed on public harvest outside this time period, including but not limited to other certain actions.

SECTION 9. Emergency clause.

Effective date: upon passage.