

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1573
By: Lindsay
Natural Resources
4/29/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently no regulatory mechanism exists at the state or federal level regarding the number of floating cabins allowed in bay areas. C.S.S.B. 1573 sets forth provisions regarding the regulation of floating cabins.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTION 1 (Sections 32.005, 32.058, 32.101, and 32.102, Parks and Wildlife Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Parks and Wildlife Code, by adding Chapter 32, as follows:

CHAPTER 32. FLOATING CABINS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 32.001. DEFINITION. Defines “coastal water” and “floating cabin.”

Sec. 32.002. APPLICABILITY TO COASTAL WATER. Provides that this chapter applies only to floating cabins moored in coastal water.

Sec. 32.003. APPLICABILITY OF OTHER LAW. Provides that Chapter 33, Natural Resources Code, does not apply to a floating cabin regulated under this chapter.

Sec. 32.004. EXEMPTION. Provides that Subchapter B of this Chapter does not apply to a floating cabin owned by a state agency.

Sec. 32.005. RULES. Authorizes the Parks and Wildlife Commission (commission) to adopt rules to implement this chapter.

[Sections 32.006-32.050 reserved for expansion]

SUBCHAPTER B. PERMITS FOR FLOATING CABINS

Sec. 32.0051. PERMIT REQUIRED. (a) Prohibits a person from owning, maintaining, or using a floating cabin in the public coastal waters of this state unless a permit has been issued under this chapter for the floating cabin.

Sec. 32.052. ELIGIBILITY FOR PERMIT. Authorizes a person to apply for a floating cabin permit under certain conditions.

Sec. 32.053. APPLICATION FOR PERMIT. (a) Requires the applicant to apply for a permit

on a form prescribed by the Texas Parks and Wildlife Department (department). Requires the department to issue a floating cabin permit to an applicant who meets certain conditions.

(b) Requires the applicant and each owner of the floating cabin to sign the application under penalty of perjury.

(c) Requires the department to remit all fees collected under this section to the comptroller for deposit to the credit of the floating cabins cleanup account in the general revenue fund. Authorizes money in the account to be used only for the cleanup of illegal or abandoned floating cabins and related debris in the coastal water.

Sec. 32.054. TERM OF PERMIT. Provides that a floating cabin permit issued under this chapter has a term of one year.

Sec. 32.055. ORIGINAL PERMIT AND PERMIT RENEWAL FEE. (a) Requires an original application for permit under Section 32.053 to be accompanied by a permit application fee of \$600, or an amount set by the commission, whichever is higher.

(b) Requires a permit holder, to renew a floating cabin permit, to apply in the manner prescribed by commission rule and pay a permit renewal fee of \$600, or an amount set by the commission, whichever is higher.

(c) Authorizes the department to refuse to issue or transfer an original or renewal license, permit, or tag of certain permittees.

(d) Requires the department to remit all fees collected under this section to the comptroller for deposit to the credit of the game, fish, and water safety account in the general revenue fund.

Sec. 32.056. LOCATION OF PERMIT; INSPECTION ALLOWED. Requires a permit holder to keep a copy of the permit in the floating cabin and available for inspection by the department.

Sec. 32.057. TRANSFER OF PERMIT. (a) Authorizes a permit holder to in writing transfer the permit to a person related in the third degree by consanguinity or affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code.

(b) Authorizes a permit holder to transfer the permit by will, but only if the heir is a person who in the absence of the will would be entitled to all or part of the deceased's property. Authorizes a permit to transfer by operation of law if the permit holder dies intestate.

(c) Requires the new permit holder, not later than the 60th day after the date of transfer, to provide to the department certain information.

(d) Requires the new permit holder to sign the information provided to the department under Subsection (c) under penalty of perjury.

(e) Prohibits a permit holder from transferring a permit to a person who has been convicted of an offense or assessed a civil penalty for a violation of this chapter.

Sec. 32.058. PURCHASE PROGRAM; PERMIT EXPIRES. (a) Authorizes the commission by rule to establish a program to purchase a floating cabin for which a permit has been issued.

(b) Provides that on transfer of ownership under this section, the permit issued for the

floating cabin expires.

(c) Provides that the owner of a floating cabin is not required to sell the cabin to the department under this section.

(d) Provides that the floating cabin purchase account is created as a separate account in the general revenue fund. Provides that the account consists of money deposited to the account under this section, including interest on that money. Authorizes the department to accept grants and gifts of money or materials from private or public sources to be applied to the floating cabin purchase account. Authorizes money in the floating cabin purchase account to be used only for the purpose of this section. Provides that Section 403.095 (Use of Dedicated Revenue), Government Code, does not apply to the account.

(e) Prohibits money from the game, fish, and water safety account from being used to purchase a floating cabin under this section.

[Sections 32.059-32.100 reserved for expansion]

SUBCHAPTER C. REQUIREMENTS AND PROHIBITED CONDUCT

Sec. 32.101. IDENTIFICATION OF FLOATING CABIN. (a) Requires a floating cabin to be marked and identified by certain means as the commission may by rule require.

(b) Requires a floating cabin, from sunset to sunrise, to exhibit at least one white light that is visible from a 360-degree angle.

(c) Provides that this section applies to each owner of a floating cabin.

Sec. 32.102. RELOCATION OF FLOATING CABIN. Authorizes a permit holder to relocate a cabin, subject to department approval. Authorizes the commission by rule to specify criteria for allowing relocation.

Sec. 32.103. REPLACEMENT OF FLOATING CABIN. Authorizes the permit holder to replace the floating cabin if certain conditions are met.

Sec. 32.104. INCREASE IN SIZE OF CABIN PROHIBITED. Prohibits a person from increasing the height, length, or width of a floating cabin.

Sec. 32.105. SANITATION DEVICE. (a) Requires a floating cabin to be equipped with a portable marine sanitation device capable of holding and retaining human body waste.

(b) Provides that each owner of a floating cabin is liable for a violation of this section.

Sec. 32.106. SEWAGE DISCHARGE PROHIBITED. Prohibits a person from discharging human body waste, treated or untreated, from a floating cabin into or adjacent to coastal water or state land.

Sec. 32.107. LOCATION OF FLOATING CABIN IN CERTAIN SITES PROHIBITED. (a) Prohibits a floating cabin from being located in certain areas.

(b) Provides that each owner of a floating cabin is liable for a violation of this section.

Sec. 32.108. OTHER PROHIBITED CONDUCT. Prohibits an owner of a floating cabin from allowing the cabin to meet certain conditions.

[Sections 32.109-32.150 reserved for expansion]

SUBCHAPTER D. ENFORCEMENT AND PENALTIES

Sec. 32.151. DISCIPLINARY ACTION. Authorizes the department to suspend or revoke a person's floating cabin permit or place the permit holder on probation for a violation of this chapter.

Sec. 32.152. CIVIL ACTIONS ALLOWED; CIVIL PENALTY. (a) Authorizes the department to bring an action for certain damages for violation of this chapter, except for Section 32.106.

(b) Requires a court to award the department attorney's fees if the department prevails in a suit filed under this section.

(c) Provides that each owner of the floating cabin is jointly and severally liable for a violation under this section.

Sec. 32.153. CRIMINAL PENALTIES. (a) Provides that a person commits an offense if the person violates certain sections.

(b) Provides that except as provided by Subsection (c) or (d), an offense under Subsection (a) is a Class C Parks and Wildlife Code misdemeanor.

(c) Provides that if it is shown on the trial of an offense under this section that the defendant was previously convicted under this section, the offense is a Class B Parks and Wildlife Code misdemeanor.

(d) Provides that if it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under this section, the offense is a Class A Parks and Wildlife Code misdemeanor.

(e) Provides that each day of a violation under this section is a separate offense.

Sec. 32.154. REMOVAL OF FLOATING CABIN; CRIMINAL PENALTY; CIVIL PENALTY; INJUNCTIVE RELIEF. (a) Authorizes the department, if a person owns a floating cabin that does not meet the criteria for issuance of an original permit under this chapter or if a permittee violates a provision of Sections 32.104, 32.107, or 32.108 of this chapter, to by written notice require the removal of the floating cabin from the coastal water not later than the 90th day after the date of notice.

(b) Provides that a person commits an offense if the person does not remove the floating cabin during the period provided by Subsection (a). Provides that an offense under this subsection is a Class A Parks and Wildlife Code misdemeanor.

(c) Authorizes the department to assess a civil penalty for a violation of Subsection (a) of \$1,000 for each day after the notice period that the owner fails to remove the floating cabin. Provides that each owner is jointly and severally liable for the civil penalty and the reasonable costs of removal and cleanup of the floating cabin and related materials at that location.

(d) Authorizes the department, or a person or entity authorized by the department, if a person does not remove the floating cabin during the period provided by Subsection (a), to remove and dispose of the floating cabin and any associated personal property in

any manner without further notice.

(e) Provides that notice under this section is valid if certain conditions exist.

(f) Provides that the department is not liable to a person for the value of a floating cabin, or any personal property associated with the cabin, removed under this section.

Sec. 32.155. VENUE. Authorizes the department to file any suit under this chapter in Travis County or the county in which the floating cabin that is the subject of the suit is located.

SECTION 2. (a) Requires the department to adopt rules, not later than February 1, 2002, to implement Chapter 32, Parks and Wildlife Code, as added by this Act. Requires the department to begin to issue the permit required by Section 32.051, Parks and Wildlife Code, not later than March 1, 2002.

(b) Prohibits the department from enforcing a prohibition or other requirement imposed by Chapter 32, Parks and Wildlife Code, as added by this Act, before February 1, 2002.

(c) Provides that Section 52.153, Parks and Wildlife Code, as added by this Act, applies only to an offense committed on or after February 1, 2002.

SECTION 3. Effective date: upon passage or September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Differs from the As Filed S.B. 1573 by amending proposed Chapter 32 (FLOATING CABINS).

SECTION 2. Adds new proposed language regarding the department's enforcement of this Act.

SECTION 3. New effective date.