

BILL ANALYSIS

Senate Research Center
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S.B. 1432
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1432 amends the Parks and Wildlife Code to establish an administrative penalty for a late report filed under the deer management program.

Under current law, the failure to produce a required report or a late submission of a required report is classified as a misdemeanor penalty. S.B. 1432 establishes provisions where the Texas Parks and Wildlife Department may impose monetary or non-monetary penalties for certain violations under the Parks and Wildlife Code, along with additional provisions that allow the attorney general to recover uncollected administrative penalties.

As proposed, S.B. 1432 amends current law relating to the punishment for certain violations of a deer breeder's reporting requirements, and provides an administrative penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 43.367, Parks and Wildlife Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that, except as provided by Subsection (b) or (c), a person who violates a provision of this subchapter (Deer Breeder's Permit) or a regulation of the Parks and Wildlife Commission issued under this subchapter or who fails to file a full and complete report as required by Section 43.359 (Records and Reports) commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(c) Provides that a person who violates Section 43.359 by failing to submit a report on time commits a violation that is punishable under Section 43.368.

SECTION 2. Amends Subchapter L, Chapter 43, Parks and Wildlife Code, by adding Section 43.368, as follows:

Sec. 43.368. ADMINISTRATIVE PENALTY. (a) Authorizes the Texas Parks and Wildlife Department (TPWD) to impose an administrative penalty against a deer breeder who violates Section 43.359 by failing to submit a report on time.

(b) Requires TPWD to impose nonmonetary, administrative penalties or remedies, including corrective action plans, probation, and evaluation periods, before monetary penalties if appropriate.

(c) Provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. Prohibits the penalty for each violation from exceeding \$50 except that the cumulative penalty under this subsection is prohibited from exceeding \$500.

(d) Requires that the amount of the penalty be based on:

- (1) the seriousness of the violation, including the nature, circumstances, and extent of the violation;
- (2) the economic or other harm caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter future violations;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

(e) Prohibits TPWD from assessing a monetary penalty for a violation that is the result of a clerical error.

(f) Authorizes the enforcement of the penalty to be stayed during the time the order is under judicial review if the deer breeder pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. Authorizes a deer breeder who cannot afford to pay the penalty or file the bond to stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of TPWD to contest the affidavit as provided by those rules.

(g) Authorizes the attorney general to sue to collect the penalty. Provides that venue for the suit is in the county in which the deer breeder's facility is located or the deer breeder resides.

(h) Provides that a proceeding to impose the penalty is considered to be a contested case under Chapter 2001 (Administrative Procedure), Government Code.

SECTION 3. Provides that Section 43.368, Parks and Wildlife Code, as added by this Act, applies to any violation under Section 43.359, Parks and Wildlife Code, in which a person's violation under Section 43.359 is based on the person's failure to timely submit a report due on or after the effective date of this Act. Provides that failure to timely submit a report due before the effective date of this Act is governed by the law in effect on the date the report was due, and the former law is continued in effect for that purpose.

SECTION 4. Effective date: upon passage or September 1, 2013.