

Amend SB 1413 as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subtitle F, Title 5, Agriculture Code, is amended by adding Chapter 122 to read as follows:

CHAPTER 122. SALE OF DESERT PLANTS

Sec. 122.001. DEFINITION. In this chapter, "desert plant" means the following genera of plants:

- (1) Agave;
- (2) Ariocarpus;
- (3) Echinocactus;
- (4) Echinocereus;
- (5) Ferocactus;
- (6) Fouquieria;
- (7) Mammillaria;
- (8) Opuntia; and
- (9) Yucca.

Sec. 122.002. ADMINISTRATION. The department shall administer this chapter and adopt rules necessary for its enforcement.

Sec. 122.003. REQUIREMENTS FOR SALE OR TRANSPORT. Unless a desert plant is marked as provided by Section 122.005, a person may not:

- (1) sell the plant;
- (2) offer the plant for sale; or
- (3) transport the plant out of this state.

Sec. 122.004. REGISTRATION REQUIRED. (a) A person who grows or harvests a desert plant for sale must register with the department.

(b) A person described by Subsection (a) must include the following with the registration information provided to the department:

- (1) a statement that the desert plants provided for sale will be harvested from the person's property; or
- (2) written documentation from the owner of the property from which the desert plants will be harvested granting the person selling or offering to sell the plants the authority to

harvest the plants.

Sec. 122.005. MARKING OF DESERT PLANTS. (a) A person subject to Section 122.004 shall mark each desert plant harvested for sale under this chapter with an identification mark prescribed by the department.

(b) The department may charge a fee for providing an identification mark under this section.

Sec. 122.006. STOP-SALE ORDER. In enforcing this chapter, the department may issue and enforce a written or printed order to stop the sale of a desert plant or a shipment of desert plants that is not marked as provided by Section 122.005. If an order is issued, a person may not sell the plant or shipment until it has been properly marked.

Sec. 122.007. AUTHORITY TO SEIZE PLANTS. In enforcing this chapter, the department with or without process may seize a desert plant or a shipment of desert plants that is:

- (1) not marked as provided by Section 122.005; and
- (2) intended for transfer out of this state.

Sec. 122.008. PENALTY. (a) A person commits an offense if the person advertises, sells, or offers for sale a desert plant or a shipment of desert plants that is not clearly and distinctly marked as provided by Section 122.005.

(b) An offense under this section is punishable by:

- (1) a fine not to exceed \$1,000;
- (2) imprisonment for a term not to exceed 180 days; or
- (3) both fine and imprisonment under this subsection.

SECTION \_\_\_\_\_. Section 12.020, Agriculture Code, is amended by amending Subsections (a) and (b) and adding Subsection (c-1) to read as follows:

(a) If a person violates a provision of this code described by Subsection (c) or (c-1) ~~[of this section]~~ or a rule or order adopted by the department under a provision of this code described by Subsection (c) or (c-1) ~~[of this section]~~, the department may assess an administrative penalty against the person as provided by this section.

(b) The penalty for each violation may be in an amount not to exceed the maximum provided by Subsection (c) or (c-1) ~~[of this~~

~~section~~]. Each day a violation continues or occurs may be considered a separate violation for purposes of penalty assessments.

(c-1) In addition to provisions described by Subsection (c), Chapter 122 is subject to this section and the applicable penalty amount is \$500.

SECTION \_\_\_\_\_. Not later than December 1, 2003, the Department of Agriculture shall adopt rules to administer Chapter 122, Agriculture Code, as added by this Act.

SECTION \_\_\_\_\_. Chapter 122, Agriculture Code, as added by this Act, and Section 12.020, Agriculture Code, as amended by this Act, take effect January 1, 2004.

(2) Amend SECTION 6 of the bill (House committee report, page 2, line 6) by striking "This" and substituting "Except as otherwise provided by this Act, this".