

## **BILL ANALYSIS**

Senate Research Center  
78R4446 PAM-D

S.B. 970  
By: Shapleigh  
Natural Resources  
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As Filed

### **DIGEST AND PURPOSE**

Currently, the West Texas desert area is a prime target for the illegal harvesting of cacti and other succulents, which may damage the desert ecosystem if certain actions are not taken. As proposed, S.B. 970 directs the Texas Department of Agriculture to administer and adopt rules necessary to enforce a system of inspections to ensure that each desert plant sold in or leaving Texas has been legally harvested.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 1 (Section 122.002, Agriculture Code) and SECTION 2 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle F, Title 5, Agriculture Code, by adding Chapter 122, as follows:

#### CHAPTER 122. SALE OF CACTI

Sec. 122.001. DEFINITION. Defines "cactus."

Sec. 122.002. ADMINISTRATION. Requires the Texas Department of Agriculture (TDA) to administer this chapter and adopt rules necessary for its enforcement.

Sec. 122.003. REQUIREMENTS FOR SALE. Prohibits a person from selling or offering for sale a cactus unless a certain exception applies.

Sec. 122.004. INSPECTION. (a) Requires TDA to inspect a cactus that is offered for sale in this state to ensure compliance with Section 122.003(2).

(b) Requires an inspector conducting an inspection under this section to mark each plant that complies with Section 122.003(2).

(c) Authorizes TDA to charge a fee for an inspection conducted under this section.

Sec. 122.005. ENTRY POWER. Provides that in enforcing this chapter, TDA is entitled to enter during normal business hours any place of business, farm, shed, or other location in this state where cacti are grown, sold, offered for sale, or displayed.

Sec. 122.006. STOP-SALE ORDER. Authorizes TDA, in enforcing this chapter, to issue and enforce a written or printed order to stop the sale of a cactus or a shipment of cacti that is not marked as inspected under Section 122.004. Prohibits a person, if an order is issued, from selling the plant or shipment until it has been properly inspected and marked.

Sec. 122.007. PENALTY. (a) Provides that a person commits an offense if the person advertises, sells, or offers for sale a cactus or a shipment of cacti that is not clearly and distinctly marked as inspected under Section 122.004.

(b) Provides that an offense under this section is punishable under certain guidelines, including fines and imprisonment.

SECTION 2. Requires TDA, not later than December 1, 2003, to adopt rules to administer Chapter 122, Agriculture Code, as added by this Act.

SECTION 3. Effective date: January 1, 2004.