

By: Shapleigh

S.B. No. 970

A BILL TO BE ENTITLED

AN ACT

relating to the sale or transport of certain desert plants;
providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

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

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

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

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

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

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

4 (1) not marked as provided by Section 122.005; and

5 (2) intended for transfer out of this state.

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

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

11 (1) a fine not to exceed \$1,000;

12 (2) imprisonment for a term not to exceed 180 days; or

13 (3) both fine and imprisonment under this subsection.

14 SECTION 2. Section 12.020, Agriculture Code, is amended by
15 amending Subsections (a) and (b) and adding Subsection (c-1) to
16 read as follows:

17 (a) If a person violates a provision of this code described
18 by Subsection (c) or (c-1) of this section or a rule or order
19 adopted by the department under a provision of this code described
20 by Subsection (c) or (c-1) of this section, the department may
21 assess an administrative penalty against the person as provided by
22 this section.

23 (b) The penalty for each violation may be in an amount not to
24 exceed the maximum provided by Subsection (c) or (c-1) of this
25 section. Each day a violation continues or occurs may be considered
26 a separate violation for purposes of penalty assessments.

27 (c-1) In addition to provisions described by Subsection

1 (c), Chapter 122 is subject to this section and the applicable
2 penalty amount is \$500.

3 SECTION 3. Not later than December 1, 2003, the Department
4 of Agriculture shall adopt rules to administer Chapter 122,
5 Agriculture Code, as added by this Act.

6 SECTION 4. This Act takes effect January 1, 2004.