

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 documentation is provided as prescribed by Section 122.005, a person may not:

- 1 (1) sell a desert plant;
- 2 (2) offer a desert plant for sale; or
- 3 (3) transport a desert 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. DOCUMENTATION FOR SALE OR TRANSPORT OF DESERT
17 PLANTS. (a) A person subject to Section 122.004 shall provide
18 documentation prescribed by the department certifying the sale or
19 transport for each transaction involving at least 25 desert plants
20 harvested for sale under this chapter. Documentation provided
21 under this subsection may certify no more than 25 desert plants.
22 For a transaction involving more than 25 desert plants, a person
23 must provide documentation for each grouping of 25 or fewer plants.

24 (b) The department may charge a fee for providing
25 documentation under this section.

26 Sec. 122.006. STOP-SALE ORDER. In enforcing this chapter,
27 the department may issue and enforce a written or printed order to

1 stop the sale of a desert plant or a shipment of desert plants that
2 is not accompanied by documentation as provided by Section 122.005.
3 If an order is issued, a person may not sell the plant or shipment
4 until proper documentation is provided.

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

8 (1) not accompanied by documentation as provided by
9 Section 122.005; and

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

11 Sec. 122.008. PENALTY. (a) A person commits an offense if
12 the person advertises, sells, or offers for sale a desert plant or a
13 shipment of desert plants that is not accompanied by documentation
14 as provided by Section 122.005.

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

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

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

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

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

22 (a) If a person violates a provision of this code described
23 by Subsection (c) or (c-1) of this section or a rule or order
24 adopted by the department under a provision of this code described
25 by Subsection (c) or (c-1) of this section, the department may
26 assess an administrative penalty against the person as provided by
27 this section.

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

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

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

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 970 passed the Senate on May 9, 2003, by a viva-voce vote; May 30, 2003, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 30, 2003, House granted request of the Senate; June 1, 2003, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 970 passed the House, with amendments, on May 28, 2003, by a non-record vote; May 30, 2003, House granted request of the Senate for appointment of Conference Committee; June 1, 2003, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor