

BILL ANALYSIS

C.S.H.B. 1303
By: Coleman
Culture, Recreation, & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas leads the nation in mercury pollution, with the primary source of pollution being produced by power plants. Pollutants emitted from these plants make their way to lakes and streams where they contaminate the fish, making them unsafe to eat. Mercury is especially dangerous for children and pregnant women. Mercury can cause serious neurological damage to young children and developing fetuses, resulting in learning disabilities, attention deficit and sensory disorders, and mental retardation. Additionally, research shows that mercury can affect the reproduction systems of fish, possibly causing a significant decrease in the fish population and growth rate. A decreasing fish population threatens Texas' multi-million dollar fishing industry.

Currently, Texas has no program for the routine testing of fish for mercury contamination. Fish in only 5% of Texas lakes and reservoirs have ever been tested for mercury contamination. Public notifications of advisories are virtually nonexistent. This bill would allow the Texas Department of Parks and Wildlife and the Texas Department of State Health Services to develop a program to regularly test the mercury contamination level in fish in Texas waters and inform the public as to the dangers of consuming high levels of mercury, fish consumption advisories and recommended consumption amounts.

RULEMAKING AUTHORITY

It is the opinion of the author that rulemaking authority is expressly delegated to the Texas Department of Health in Section 1 (Section 436.157, Health and Safety Code) of this bill.

ANALYSIS

Section 1. Amends Chapter 436, Health and Safety Code, by adding Subchapter J as follows:

SUBCHAPTER J. Contamination Testing

Sec. 436.151. Definitions. Defines *fresh water* and *salt water*.

Sec. 436.152. Testing for Mercury Contamination. Allows the Texas Department of State Health Services to establish a program to test fish and shellfish living in all fresh and salt water bodies in Texas for mercury contamination.

Sec. 436.153. Declaration of Prohibited Areas. Allows the director of the Texas Department of Health to declare a prohibited area if testing reveals that the level of mercury contamination in the fish in that area is unfit for human consumption.

Sec. 436.154. Educational Pamphlet. Allows the Texas Department of Health to publish an educational pamphlet which reports the results of the mercury contamination testing, lists any fish consumption advisories and bans or recommended consumption amounts, and advises consumers about the risks associated with eating fish with high levels of mercury contamination.

Sec. 436.155. Public Service Announcement. Allows the department to prepare and issue public service announcements that advise consumers of the risks associated with eating fish with high levels of mercury contamination and locations where consumers may obtain additional information.

Sec. 436.156. Signs At Boat Ramps. Allows the Texas Department of State Health Services to post and maintain signs in the two most widely spoken languages in the area at all public boat ramps located on bodies of waters affected by a fish consumption advisory or ban.

Sec. 436.157. Rules. Allows the board to adopt rules necessary to implement this subchapter.

Section 2. Amends Chapter 11, Parks and Wildlife Code, by adding Subchapter K as follows:

SUBCHAPTER K. Fish Consumption Advisories

Sec. 11.251. Publication Requirements. Allows the Texas Department of Parks and Wildlife to publish all consumption advisories, bans, and recommended consumption amounts issued by the Texas Department of Health in their *Outdoor Annual* and to provide a link to the information in a conspicuous place on their website.

Sec. 11.252. Distribution Requirements. Allows for the Texas Department of Parks and Wildlife to require each person selling fishing licenses in Texas to distribute, on request, the educational pamphlet published by the Department of State Health Services.

Sec. 11.253. Professional Education Requirements. Allows the Texas Department of Parks and Wildlife to provide training regarding fish consumption advisories and bans, recommended consumption amounts and risks associated with consuming fish with high mercury contamination levels to all department employees who sell fishing licenses or teach angler education classes.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The Committee Substitute to H.B. 1303 (CSHB 1303) makes the bill permissive. It allows, rather than requires, for the Department of State Health Services (DSHS) and the Department of Parks and Wildlife to take various steps to acquire data and inform the public on mercury contamination in fish and shellfish.

CSHB 1303 allows DSHS to post and maintain signs at boat ramps on affected bodies of water, rather than the Department of Parks and Wildlife as required by the bill as filed. Additionally, Sec. 436.154 now allows the DSHS to publish an educational pamphlet instead of an educational booklet, as required by the bill as filed.