

By: Jackson, Mike

S.B. No. 1679

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the requirements for packing oysters; providing a  
3 penalty.

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

5 SECTION 1. Section 436.011, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 436.011. PROHIBITED ACTS. The following acts and the  
8 causing of the following acts within this state are unlawful and  
9 prohibited:

10 (1) taking, selling, offering for sale, or holding for  
11 sale molluscan shellfish from a closed area;

12 (2) taking, selling, offering for sale, or holding for  
13 sale molluscan shellfish from a restricted or conditionally  
14 restricted area without complying with a rule adopted by the board  
15 to ensure that the molluscan shellfish have been purified, unless:

16 (A) permission is first obtained from the Parks  
17 and Wildlife Department and the transplanting is supervised by that  
18 department; and

19 (B) the Parks and Wildlife Department furnishes a  
20 copy of the transplant permit to the director before transplanting  
21 activities begin;

22 (3) possessing a species of aquatic life taken from a  
23 prohibited area while the area was prohibited for that species;

24 (4) operating as a molluscan shellfish processor

1 without a shellfish certificate for each plant or place of  
2 business;

3 (5) operating as a crabmeat processor without a  
4 crabmeat processing license for each plant;

5 (6) selling, offering for sale, or holding for sale  
6 molluscan shellfish or crabmeat that has not been picked, handled,  
7 packaged, or pasteurized in accordance with the rules adopted by  
8 the board;

9 (7) selling, offering for sale, or holding for sale  
10 molluscan shellfish or crabmeat from facilities for the handling  
11 and packaging of molluscan shellfish or crabmeat that do not comply  
12 with the rules adopted by the board;

13 (8) selling, offering for sale, or holding for sale  
14 molluscan shellfish or crabmeat that is not labeled in accordance  
15 with the rules adopted by the board;

16 (9) selling, offering for sale, or holding for sale  
17 molluscan shellfish that is not in a container bearing a valid  
18 certificate number from a state or nation whose molluscan shellfish  
19 certification program conforms to the current Manual of Operations  
20 for Sanitary Control of the Shellfish Industry issued by the Food  
21 and Drug Administration or its successor, except selling molluscan  
22 shellfish removed from a container bearing a valid certificate  
23 number for on-premises consumption; in the event the Texas  
24 Molluscan Shellfish Program is found to be out of conformity with  
25 the current Manual of Operations, selling, offering for sale, or  
26 holding for sale molluscan shellfish in a container bearing a valid  
27 Texas certificate number shall not be considered a violation of

1 this chapter provided all other requirements of this chapter are  
2 complied with and the shellfish have come from an approved source;

3 (10) processing, transporting, storing for sale,  
4 possessing with intent to sell, offering for sale, or selling  
5 molluscan shellfish or crabmeat for human consumption that is  
6 adulterated or misbranded;

7 (11) removing or disposing of a detained or embargoed  
8 article in violation of Section 436.028;

9 (12) altering, mutilating, destroying, obliterating,  
10 or removing all or part of the labeling of a container;

11 (13) adulterating or misbranding molluscan shellfish  
12 or crabmeat in commerce;

13 (14) refusing to permit entry or inspection, to permit  
14 the taking of a sample, or to permit access to or copying by an  
15 authorized agent of a record required by this chapter;

16 (15) failing to establish or maintain a record or  
17 report required by this chapter or by a rule adopted by the board;  
18 [~~or~~]

19 (16) packing oysters in violation of Section  
20 436.103(a) or (b); or

21 (17) violating a rule adopted by the board or an  
22 emergency rule or order adopted by the director.

23 SECTION 2. Section 436.038(a), Health and Safety Code, is  
24 amended to read as follows:

25 (a) A person commits an offense if the person intentionally,  
26 knowingly, recklessly, or with criminal negligence commits an  
27 unlawful act under Section 436.011 except a violation of Section

1 436.011(16).

2 SECTION 3. Section 436.103, Health and Safety Code, is  
3 amended by adding Subsection (j) to read as follows:

4 (j) A penalty assessed under this section is in addition to  
5 any civil or administrative penalty assessed under Subchapter C for  
6 a violation of Section 436.011(16).

7 SECTION 4. The changes in law made by this Act to Sections  
8 436.011 and 436.103, Health and Safety Code, apply only to conduct  
9 that occurs on or after the effective date of this Act. Conduct  
10 that occurs before the effective date of this Act is governed by the  
11 law in effect on the date the conduct occurred, and the former law  
12 is continued in effect for that purpose.

13 SECTION 5. This Act takes effect September 1, 2005.