

1-1 By: Shapleigh S.B. No. 689
1-2 (In the Senate - Filed February 15, 2007; February 28, 2007,
1-3 read first time and referred to Subcommittee on Agriculture, Rural
1-4 Affairs and Coastal Resources; April 23, 2007, reported adversely,
1-5 with favorable Committee Substitute from Committee on Natural
1-6 Resources by the following vote: Yeas 9, Nays 0; April 23, 2007,
1-7 sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR S.B. No. 689 By: Hinojosa

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the sale or transport of certain desert plants;
1-12 providing a penalty.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subtitle F, Title 5, Agriculture Code, is
1-15 amended by adding Chapter 122 to read as follows:

1-16 CHAPTER 122. SALE OF DESERT PLANTS

1-17 Sec. 122.001. DEFINITION. In this chapter, "desert plant"
1-18 means the following genera of plants:

- 1-19 (1) Agave;
- 1-20 (2) Ariocarpus;
- 1-21 (3) Echinocactus;
- 1-22 (4) Echinocereus;
- 1-23 (5) Ferocactus;
- 1-24 (6) Fouquieria;
- 1-25 (7) Mammillaria; and
- 1-26 (8) Yucca.

1-27 Sec. 122.002. ADMINISTRATION. The department shall
1-28 administer this chapter and adopt rules necessary for its
1-29 enforcement.

1-30 Sec. 122.003. REQUIREMENTS FOR SALE OR TRANSPORT. Unless
1-31 documentation is provided as prescribed by Section 122.005, a
1-32 person may not:

- 1-33 (1) sell a desert plant;
- 1-34 (2) offer a desert plant for sale; or
- 1-35 (3) transport a desert plant out of this state.

1-36 Sec. 122.004. REGISTRATION REQUIRED. (a) A person who
1-37 grows or harvests a desert plant for sale must register with the
1-38 department.

1-39 (b) A person described by Subsection (a) must include the
1-40 following with the registration information provided to the
1-41 department:

- 1-42 (1) a statement that the desert plants provided for
1-43 sale will be harvested from the person's property; or
- 1-44 (2) written documentation from the owner of the
1-45 property from which the desert plants will be harvested granting
1-46 the person selling or offering to sell the plants the authority to
1-47 harvest the plants.

1-48 Sec. 122.005. DOCUMENTATION FOR SALE OR TRANSPORT OF DESERT
1-49 PLANTS. (a) A person subject to Section 122.004 shall provide
1-50 documentation prescribed by the department certifying the sale or
1-51 transport for each transaction involving at least 25 desert plants
1-52 harvested for sale under this chapter. Documentation provided
1-53 under this subsection may certify no more than 25 desert plants.
1-54 For a transaction involving more than 25 desert plants, a person
1-55 must provide documentation for each grouping of 25 or fewer plants.

1-56 (b) The department may charge a fee for providing
1-57 documentation under this section.

1-58 Sec. 122.006. STOP-SALE ORDER. In enforcing this chapter,
1-59 the department may issue and enforce a written or printed order to
1-60 stop the sale of a desert plant or a shipment of desert plants that
1-61 is not accompanied by documentation as provided by Section 122.005.
1-62 If an order is issued, a person may not sell the plant or shipment
1-63 until proper documentation is provided.

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

2-4 (1) not accompanied by documentation as provided by
2-5 Section 122.005; and

2-6 (2) intended for transfer out of this state.

2-7 Sec. 122.008. PENALTY. (a) A person commits an offense if
2-8 the person advertises, sells, or offers for sale a desert plant or a
2-9 shipment of desert plants that is not accompanied by documentation
2-10 as provided by Section 122.005.

2-11 (b) An offense under this section is punishable by:

2-12 (1) a fine not to exceed \$1,000;

2-13 (2) imprisonment for a term not to exceed 180 days; or

2-14 (3) both fine and imprisonment under this subsection.

2-15 SECTION 2. Section 12.020, Agriculture Code, is amended by
2-16 amending Subsections (a) and (b) and adding Subsection (c-1) to
2-17 read as follows:

2-18 (a) If a person violates a provision of this code described
2-19 by Subsection (c) or (c-1) of this section or a rule or order
2-20 adopted by the department under a provision of this code described
2-21 by Subsection (c) or (c-1) of this section, the department may
2-22 assess an administrative penalty against the person as provided by
2-23 this section.

2-24 (b) The penalty for each violation may be in an amount not to
2-25 exceed the maximum provided by Subsection (c) or (c-1) of this
2-26 section. Each day a violation continues or occurs may be considered
2-27 a separate violation for purposes of penalty assessments.

2-28 (c-1) In addition to provisions described by Subsection
2-29 (c), Chapter 122 is subject to this section and the applicable
2-30 penalty amount is \$500.

2-31 SECTION 3. (a) Not later than December 1, 2007, the
2-32 Department of Agriculture shall adopt rules to administer Chapter
2-33 122, Agriculture Code, as added by this Act.

2-34 (b) Chapter 122, Agriculture Code, as added by this Act,
2-35 applies only to a sale, an offer for sale, or the transportation of
2-36 a desert plant on or after January 1, 2008.

2-37 SECTION 4. This Act takes effect September 1, 2007.

2-38 * * * * *