

BILL ANALYSIS

C.S.H.B. 4595
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Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

When illnesses associated with oyster consumption occur, the National Shellfish Sanitation Program requires states to take immediate action to stop the outbreak. The first line of defense for the consumer is ensuring that oysters are harvested from areas that meet the national program's requirements. Illegal harvesting from a closed area represents a major health threat to consumers. If two or more individuals become ill from oyster consumption, the national program requires states to immediately close the growing area and recall all of the product produced from that area during the time period in question. It is important to public health and the oyster industry that the Parks and Wildlife Department enforce closure lines and prevent oysters harvested in closed areas from entering the marketplace.

C.S.H.B. 4595 increases the penalties for taking oysters from restricted areas and provides that each person on a commercial oyster boat, rather than just the captain, is responsible for a violation regarding the taking of oysters from restricted areas.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4595 amends the Parks and Wildlife Code to increase the penalty for taking oysters from restricted areas from a Class B Parks and Wildlife Code misdemeanor to a Class A Parks and Wildlife Code misdemeanor. The bill provides that a person who violates provisions regarding the prohibition against night dredging and provisions regarding the taking of oysters from restricted areas at the same time commits a Class A Parks and Wildlife Code misdemeanor offense. The bill increases the penalty, if it is shown at the trial of a defendant for a violation of provisions regarding the taking of oysters from restricted areas that the defendant has been convicted of that same violation once within the previous five years, to a Parks and Wildlife Code state jail felony, rather than a Class A Parks and Wildlife misdemeanor. The bill adds that each person on a vessel licensed as a commercial oyster boat is responsible for a violation regarding the taking of oysters from restricted areas, an exception to the provision establishing that a member of the crew of such vessel is not guilty of a violation of provisions regarding oysters.

C.S.H.B. 4595 defines "barrel of oysters," "natural oyster bed," and "open season."

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4595 adds a provision not in the original to define "barrel of oysters," "natural oyster bed," and "open season." The substitute adds a provision not in the original to make a technical correction relating to the transfer of a power, duty, function, program, or activity from an abolished health and human services agency to the corresponding legacy agency.