

By: Eiland

H.B. No. 4595

Substitute the following for H.B. No. 4595:

By: McCall

C.S.H.B. No. 4595

A BILL TO BE ENTITLED

AN ACT

relating to responsibility and criminal penalties for certain violations committed by commercial oyster boat crews.

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

SECTION 1. Section 76.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.001. DEFINITIONS [~~NATURAL OYSTER BED~~]. In this chapter:

(1) "Barrel of oysters" means three boxes of oysters in the shell or two gallons of shucked oysters without shells. The dimensions of a box are 10 inches by 20 inches by 13-1/2 inches. In filling a box for measurement, the oysters may not be piled more than 2-1/2 inches above the height of the box at the center.

(2) "Natural [~~(a) A natural~~] oyster bed" means an area where [~~exists when~~] at least five barrels of oysters are found within 2,500 square feet of any position on a reef or bed.

(3) "Open season" means a period during which it is lawful to take oysters.

~~[(b) In this section, a barrel of oysters is equal to three boxes of oysters in the shell. The dimensions of a box are 10 inches by 20 inches by 13-1/2 inches. In filling a box for measurement, the oysters may not be piled more than 2-1/2 inches above the height of the box at the center. Two gallons of shucked oysters without shells equals one barrel of oysters in the shell.]~~

SECTION 2. Section 76.116(a), Parks and Wildlife Code, is amended to read as follows:

(a) There is no open season for taking oysters from areas closed by the ~~[Texas]~~ Department of State Health Services.

SECTION 3. Section 76.118, Parks and Wildlife Code, is amended by amending Subsections (b), (c), and (e) and adding Subsection (e-1) to read as follows:

(b) A person who violates Section 76.101, 76.107, or 76.109~~[, or 76.116 of this code]~~ or a regulation of the commission issued under one of those sections commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(c) A person who violates Section 76.116, or at the same time violates Sections ~~[Section]~~ 76.109 and ~~[either Section]~~ 76.116~~, [or Section 76.205 of this code]~~ commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

(e) If it is shown at the trial of a defendant for a violation of Section 76.101, 76.107, or 76.109~~[, or 76.116 of this code]~~ that the defendant has been convicted once within five years before the trial date of a violation of Section 76.101, 76.107, or 76.109, ~~[or 76.116 of this code]~~ the defendant is guilty of a Class A Parks and Wildlife Code misdemeanor.

(e-1) If it is shown at the trial of a defendant for a violation of Section 76.116 that the defendant has been convicted once within five years before the trial date of a violation of Section 76.116, the defendant is guilty of a Parks and Wildlife Code state jail felony.

SECTION 4. Section 76.119(a), Parks and Wildlife Code, is

1 amended to read as follows:

2       (a) If a vessel licensed as a commercial oyster boat is  
3 involved in a violation of this chapter, the captain of the vessel  
4 licensed as a commercial oyster boat is primarily responsible for  
5 the violation. A member of the crew of a vessel licensed as a  
6 commercial oyster boat is not guilty of a violation unless the  
7 member of the crew committed the violation against the captain's  
8 orders, except for a violation of Section 76.109 or 76.116 [~~of this~~  
9 ~~subchapter~~], in which case each person on the vessel is responsible  
10 for the violation.

11       SECTION 5. The change in law made by this Act applies only  
12 to an offense committed on or after the effective date of this Act.  
13 An offense committed before the effective date of this Act is  
14 covered by the law in effect when the offense was committed. For  
15 purposes of this section, an offense was committed before the  
16 effective date of this Act if any element of the offense occurred  
17 before that date.

18       SECTION 6. This Act takes effect September 1, 2009.