

By: Shapleigh

S.B. No. 212

A BILL TO BE ENTITLED

AN ACT

relating to the sale or transport of certain desert plants;
providing a penalty.

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

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

CHAPTER 122. SALE OF DESERT PLANTS

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

- (1) Agave;
- (2) Ariocarpus;
- (3) Echinocactus;
- (4) Echinocereus;
- (5) Ferocactus;
- (6) Fouquieria;
- (7) Mammillaria; and
- (8) Yucca.

Sec. 122.002. ADMINISTRATION. The department shall administer this chapter and adopt rules necessary for its enforcement.

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

- (1) sell a desert plant;

1 (2) offer a desert plant for sale; or

2 (3) transport a desert plant out of this state.

3 Sec. 122.004. REGISTRATION REQUIRED. (a) A person who
4 grows or harvests a desert plant for sale must register with the
5 department.

6 (b) A person described by Subsection (a) must include the
7 following with the registration information provided to the
8 department:

9 (1) a statement that the desert plants provided for
10 sale will be harvested from the person's property; or

11 (2) written documentation from the owner of the
12 property from which the desert plants will be harvested granting
13 the person selling or offering to sell the plants the authority to
14 harvest the plants.

15 Sec. 122.005. DOCUMENTATION FOR SALE OR TRANSPORT OF DESERT
16 PLANTS. (a) A person subject to Section 122.004 shall provide
17 documentation prescribed by the department certifying the sale or
18 transport for each transaction involving at least 25 desert plants
19 harvested for sale under this chapter. Documentation provided
20 under this subsection may certify no more than 25 desert plants.
21 For a transaction involving more than 25 desert plants, a person
22 must provide documentation for each grouping of 25 or fewer plants.

23 (b) The department may charge a fee for providing
24 documentation under this section.

25 Sec. 122.006. STOP-SALE ORDER. In enforcing this chapter,
26 the department may issue and enforce a written or printed order to
27 stop the sale of a desert plant or a shipment of desert plants that

1 is not accompanied by documentation as provided by Section 122.005.
2 If an order is issued, a person may not sell the plant or shipment
3 until proper documentation is provided.

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

7 (1) not accompanied by documentation as provided by
8 Section 122.005; and

9 (2) intended for transfer out of this state.

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

14 (b) An offense under this section is punishable by:

15 (1) a fine not to exceed \$1,000;

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

17 (3) both fine and imprisonment under this subsection.

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

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

27 (b) The penalty for each violation may be in an amount not to

1 exceed the maximum provided by Subsection (c) or (c-1) of this
2 section. Each day a violation continues or occurs may be considered
3 a separate violation for purposes of penalty assessments.

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

7 SECTION 3. (a) Not later than December 1, 2009, the
8 Department of Agriculture shall adopt rules to administer Chapter
9 122, Agriculture Code, as added by this Act.

10 (b) Chapter 122, Agriculture Code, as added by this Act,
11 applies only to a sale, an offer for sale, or the transportation of
12 a desert plant on or after January 1, 2010.

13 SECTION 4. This Act takes effect September 1, 2009.