

By: Hinojosa

S.B. No. 1432

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the punishment for certain violations of a deer
3 breeder's reporting requirements; providing an administrative
4 penalty.

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

6 SECTION 1. Section 43.367, Parks and Wildlife Code, is
7 amended by amending Subsection (a) and adding Subsection (c) to
8 read as follows:

9 (a) Except as provided by Subsection (b) or (c), a person
10 who violates a provision of this subchapter or a regulation of the
11 commission issued under this subchapter or who fails to file a full
12 and complete report as required by Section 43.359 commits an
13 offense that is a Class C Parks and Wildlife Code misdemeanor.

14 (c) A person who violates Section 43.359 by failing to
15 submit a report on time commits a violation that is punishable under
16 Section 43.368.

17 SECTION 2. Subchapter L, Chapter 43, Parks and Wildlife
18 Code, is amended by adding Section 43.368 to read as follows:

19 Sec. 43.368. ADMINISTRATIVE PENALTY. (a) The department
20 may impose an administrative penalty against a deer breeder who
21 violates Section 43.359 by failing to submit a report on time.

22 (b) The department shall impose nonmonetary, administrative
23 penalties or remedies, including corrective action plans,
24 probation, and evaluation periods, before monetary penalties if

1 appropriate.

2 (c) Each day a violation continues or occurs is a separate
3 violation for purposes of imposing a penalty. The penalty for each
4 violation may not exceed \$50 except that the cumulative penalty
5 under this subsection may not exceed \$500.

6 (d) The amount of the penalty shall be based on:

7 (1) the seriousness of the violation, including the
8 nature, circumstances, and extent of the violation;

9 (2) the economic or other harm caused by the
10 violation;

11 (3) the history of previous violations;

12 (4) the amount necessary to deter future violations;

13 (5) efforts to correct the violation; and

14 (6) any other matter that justice may require.

15 (e) The department may not assess a monetary penalty for a
16 violation that is the result of a clerical error.

17 (f) The enforcement of the penalty may be stayed during the
18 time the order is under judicial review if the deer breeder pays the
19 penalty to the clerk of the court or files a supersedeas bond with
20 the court in the amount of the penalty. A deer breeder who cannot
21 afford to pay the penalty or file the bond may stay the enforcement
22 by filing an affidavit in the manner required by the Texas Rules of
23 Civil Procedure for a party who cannot afford to file security for
24 costs, subject to the right of the department to contest the
25 affidavit as provided by those rules.

26 (g) The attorney general may sue to collect the penalty.

27 Venue for the suit is in the county in which:

1 (1) the deer breeder's facility is located; or

2 (2) the deer breeder resides.

3 (h) A proceeding to impose the penalty is considered to be a
4 contested case under Chapter 2001, Government Code.

5 SECTION 3. Section 43.368, Parks and Wildlife Code, as
6 added by this Act, applies to any violation under Section 43.359,
7 Parks and Wildlife Code, in which a person's violation under
8 Section 43.359 is based on the person's failure to timely submit a
9 report due on or after the effective date of this Act. Failure to
10 timely submit a report due before the effective date of this Act is
11 governed by the law in effect on the date the report was due, and the
12 former law is continued in effect for that purpose.

13 SECTION 4. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2013.