

BILL ANALYSIS

Senate Research Center
86R16921 SLB-F

H.B. 1300
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Water & Rural Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It has been noted that, while the Texas commercial oyster industry has primarily relied upon the harvest of oysters from natural reefs, interest in cultivated oysters has grown as the value of oysters in general has increased. H.B. 1300 seeks to address this issue by providing for a cultivated oyster mariculture program.

H.B. 1300 amends current law relating to cultivated oyster mariculture; authorizes fees; requires a permit; and creates a criminal offense.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Parks and Wildlife Commission in SECTION 4 (Section 75.0103, Parks and Wildlife Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.032(b), Parks and Wildlife Code, as follows:

(b) Requires the Texas Parks and Wildlife Department (TPWD) to deposit to the credit of the game, fish, and water safety account all revenue, less allowable costs, from the following sources:

- (1)–(20) makes no changes to these subdivisions;
- (21) fees related to cultivated oyster mariculture, rather than any other source provided by law, and makes a nonsubstantive change;
- (22) makes a nonsubstantive change to this subdivision; and
- (23) any other source provided by law.

SECTION 2. Amends Section 11.033(a), Parks and Wildlife Code, to read as follows:

(a) Authorizes money in the game, fish, and water safety account, to the extent allowed by federal law, to be used for the following purposes:

- (1)–(14) makes no changes to these subdivisions;
- (15) makes a nonsubstantive change to this subdivision;
- (16) the cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris in public water; and
- (17) creates this subdivision from existing text and makes no further changes.

SECTION 3. Amends Section 47.0091, Parks and Wildlife Code, as follows:

Sec. 47.0091. PURCHASE OF AQUATIC PRODUCTS BY WHOLESALE FISH DEALERS. Prohibits a wholesale fish dealer from purchasing for resale or receiving for sale, barter, exchange, or any other commercial purpose any aquatic product from any person or entity in this state unless he purchases the product from the holder of:

- (1)–(9) makes no changes to these subdivisions;
- (10)–(11) makes nonsubstantive changes to these subdivisions; or
- (12) a cultivated oyster mariculture permit.

SECTION 4. Amends Subtitle D, Title 5, Parks and Wildlife Code, by adding Chapter 75, as follows:

CHAPTER 75. CULTIVATED OYSTER MARICULTURE

Sec. 75.0101. DEFINITIONS. Defines "broodstock oyster," "cultivated oyster," "cultivated oyster mariculture," "natural oyster bed," and "oyster" for purposes of this chapter.

Sec. 75.0102. APPLICABILITY; CONFLICT OF LAWS. (a) Provides that a structure used to grow oysters that is part of a cultivated oyster mariculture operation is not a natural oyster bed or a private oyster bed and is not subject to location requirements under Subchapter A (Public and Private Oyster Beds), Chapter 76.

(b) Provides that the licensing and permitting requirements of Subchapters B (Oyster Permits), C (Oyster Licenses), and F (Oyster License Moratorium), Chapter 76 (Oysters), do not apply to activity carried out under a cultivated oyster mariculture permit issued under this chapter.

(c) Provides that a regulation adopted under Section 76.301 (Regulation of Taking, Possession, Purchase, and Sale of Oysters) does not apply to an activity carried out under a cultivated oyster mariculture permit issued under this chapter.

(d) Provides that a rule or proclamation issued under this section prevails to the extent of conflict over a rule or proclamation issued under:

- (1) Chapter 61 (Uniform Wildlife Regulatory Act); or
- (2) Chapter 76.

(e) Provides that Section 2001.0045 (Requirement For Rule Increasing Costs to Regulated Persons), Government Code, does not apply to rules adopted under this chapter.

Sec. 75.0103. CULTIVATED OYSTER MARICULTURE PROGRAM. (a) Requires the Texas Parks and Wildlife Commission (TPWC) to adopt rules to establish a program governing cultivated oyster mariculture.

(b) Authorizes rules adopted under the program to establish requirements for:

- (1) the location and size of a cultivated oyster mariculture operation;
- (2) the taking, possession, transport, movement, and sale of cultivated oysters;
- (3) the taking, possession, transport, and movement of broodstock oysters;
- (4) marking structures for the cultivation of oysters in a cultivated oyster mariculture operation;

(5) fees and conditions for use of public resources, including broodstock oysters and public water; and

(6) any other matter necessary to implement and administer this chapter.

(c) Requires TPWD to coordinate with the Texas Department of Agriculture, the Department of State Health Services, the Texas General Land Office, and the Texas Commission on Environmental Quality in the adoption of rules under this section.

Sec. 75.0104. CULTIVATED OYSTER MARICULTURE PERMIT REQUIRED. (a) Prohibits a person from engaging in cultivated oyster mariculture without first having acquired a cultivated oyster mariculture permit.

(b) Requires TPWC to adopt rules to implement this section. Authorizes rules adopted under this section to establish requirements for:

(1) permit applications and application fees;

(2) criteria for the approval, transfer, revocation, and suspension of permits; and

(3) procedures for hearings related to a permit.

Sec. 75.0105. DEPOSIT AND USE OF FEES; CULTIVATED OYSTER MARICULTURE CLEANUP SUBACCOUNT. (a) Requires fees collected under this chapter, except as provided by Subsection (c), to be deposited to the credit of the game, fish, and water safety account.

(b) Provides that the cultivated oyster mariculture cleanup subaccount is a subaccount in the game, fish, and water safety account. Provides that the subaccount consists of money deposited to the subaccount under this section.

(c) Requires TPWD to set aside 20 percent of the fees collected under this chapter. Requires that money to be deposited to the credit of the cultivated oyster mariculture cleanup subaccount in the game, fish, and water safety account and authorizes the money to be used only for the cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris in public water.

Sec. 75.0106. PROHIBITED ACTIONS. (a) Prohibits a person from selling or bartering, or offering to sell or barter, a cultivated oyster, except as authorized by this chapter.

(b) Prohibits a person from placing a cultivated oyster in a natural oyster bed or private oyster bed.

(c) Defines "coastal public land" for purposes of this subsection. Prohibits a person, regardless of whether a person holds a permit under this chapter, from placing a structure related to cultivated oyster mariculture on coastal public land unless the person first obtains a lease or easement under Chapter 33 (Management of Coastal Public Land) or 51 (Land, Timber, and Surface Resources), Natural Resources Code.

Sec. 75.0107. PENALTIES. (a) Defines "final conviction" for purposes of this section.

(b) Provides that a person who violates Section 75.0104(a) or 75.0106 or a rule adopted under this chapter commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(c) Authorizes the actor, if conduct constituting an offense under this section also constitutes an offense under Section 33.112 (Failure to Obtain an Easement), Natural Resources Code, to be prosecuted under this section, Section 33.112, Natural Resources Code, or both.

SECTION 5. Requires TPWC, not later than August 31, 2020, to adopt rules to implement Chapter 75, Parks and Wildlife Code, as added by this Act.

SECTION 6. Effective date: September 1, 2019.