

1-1 By: Morrison (Senate Sponsor - Hinojosa) H.B. No. 2321
1-2 (In the Senate - Received from the House May 2, 2019;
1-3 May 6, 2019, read first time and referred to Committee on
1-4 Agriculture; May 8, 2019, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; May 8, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			

1-13 A BILL TO BE ENTITLED
1-14 AN ACT

1-15 relating to the regulation of oyster harvesting; increasing a
1-16 criminal penalty.

1-17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-18 SECTION 1. Sections 76.118(c), (e-2), (e-3), (e-4), and
1-19 (g), Parks and Wildlife Code, are amended to read as follows:

1-20 (c) A person who violates [~~Section 76.116, or at the same~~
1-21 ~~time violates~~] Sections 76.109 and either Section 76.115 or 76.116
1-22 in the same criminal episode[~~7~~] commits an offense that is a Class A
1-23 Parks and Wildlife Code misdemeanor.

1-24 (e-2) An offense related to oyster size or the harvest of
1-25 oysters from a closed area is a Class B Parks and Wildlife Code
1-26 misdemeanor if it is shown on the trial of the offense that [The
1-27 punishment for an offense otherwise punishable under Subsection (a)
1-28 is a Class B Parks and Wildlife misdemeanor if it is shown on the
1-29 trial of the offense that:

1-30 [~~(1) the defendant is the captain of a commercial~~
1-31 ~~oyster boat or a member of the crew of a commercial oyster boat;~~

1-32 [~~(2) the provision or regulation violated relates to~~
1-33 ~~oyster size; and~~

1-34 [~~(3)] the defendant has previously been convicted at~~
1-35 least twice for a violation of a provision or regulation relating to
1-36 oyster size or the harvest of oysters from a closed area.

1-37 (e-3) An [The punishment for an] offense during the
1-38 commission of which the defendant was in possession of a cargo of
1-39 oysters in which 30 percent or more of the oysters measured less
1-40 than three inches in length along an imaginary straight line
1-41 through the long axis of the shell or an offense related to the
1-42 harvest of oysters from a closed area [otherwise punishable under
1-43 Subsection (a)] is a Class B [C] Parks and Wildlife Code
1-44 misdemeanor, [with an attendant license suspension under Section
1-45 76.1181,] if it is shown on the trial of the offense that[+

1-46 [~~(1) the defendant is the captain of a commercial~~
1-47 ~~oyster boat or a member of the crew of a commercial oyster boat;~~

1-48 [~~(2) the provision or regulation violated relates to~~
1-49 ~~oyster size and the defendant was in possession of a cargo of~~
1-50 ~~oysters in which 30 percent or more of the oysters measured less~~
1-51 ~~than three inches in length along an imaginary straight line~~
1-52 ~~through the long axis of the shell; and~~

1-53 [~~(3)] the defendant has previously been convicted one~~
1-54 time for a violation of a provision or regulation relating to:

1-55 (1) oyster size and the defendant was in possession of
1-56 a cargo of oysters in which 30 percent or more of the oysters
1-57 measured less than three inches in length along an imaginary
1-58 straight line through the long axis of the shell; or

1-59 (2) the harvest of oysters from a closed area.

1-60 (e-4) The punishment for an offense otherwise punishable
1-61 under Subsection (a) is a Class A [~~B~~] Parks and Wildlife Code

2-1 misdemeanor, with an attendant license suspension under Section
2-2 76.1181, if it is shown on the trial of the offense that:

2-3 (1) the defendant is the captain of a commercial
2-4 oyster boat or a member of the crew of a commercial oyster boat;

2-5 (2) the provision or regulation violated relates to:

2-6 (A) oyster size and the defendant was in
2-7 possession of a cargo of oysters in which 30 percent or more of the
2-8 oysters measured less than three inches in length along an
2-9 imaginary straight line through the long axis of the shell; or

2-10 (B) the harvest of oysters from a closed area;
2-11 and

2-12 (3) the defendant has previously been convicted at
2-13 least two times for a violation of a provision or regulation
2-14 relating to:

2-15 (A) oyster size and the defendant during both
2-16 offenses was in possession of a cargo of oysters in which 30 percent
2-17 or more of the oysters measured less than three inches in length
2-18 along an imaginary straight line through the long axis of the shell;

2-19 or
2-20 (B) the harvest of oysters from a closed area.

2-21 (g) If it is shown on ~~[at]~~ on the trial of a defendant for a
2-22 violation ~~[at the same time]~~ of Section 76.109 and either Section
2-23 76.115 or 76.116 occurring in the same criminal episode ~~[or Section~~
2-24 ~~76.205 of this code]~~ that the defendant has been convicted once
2-25 before within five years before the trial date of a violation ~~[at~~
2-26 ~~the same time]~~ of Section 76.109 and either Section 76.115 or 76.116
2-27 ~~[or 76.205 of this code]~~ occurring in the same criminal episode, the
2-28 defendant is guilty of a Parks and Wildlife Code felony.

2-29 SECTION 2. The change in law made by this Act applies only
2-30 to an offense committed on or after the effective date of this Act.
2-31 An offense committed before the effective date of this Act is
2-32 governed by the law in effect on the date the offense was committed,
2-33 and the former law is continued in effect for that purpose. For
2-34 purposes of this section, an offense was committed before the
2-35 effective date of this Act if any element of the offense occurred
2-36 before that date.

2-37 SECTION 3. This Act takes effect September 1, 2019.

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