

By: Kolkhorst

S.B. No. 682

A BILL TO BE ENTITLED

1 AN ACT
2 relating to cultivated oyster mariculture; authorizing fees;
3 creating a criminal offense.

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

5 SECTION 1. Section 11.032(b), Parks and Wildlife Code, is
6 amended to read as follows:

7 (b) The department shall deposit to the credit of the game,
8 fish, and water safety account all revenue, less allowable costs,
9 from the following sources:

10 (1) all types of fishing licenses and stamps and
11 shrimping licenses;

12 (2) all types of hunting licenses and stamps;

13 (3) trapping licenses and other licenses relating to
14 the taking, propagation, and sale of fur-bearing animals or their
15 pelts;

16 (4) sale of marl, sand, gravel, shell, and mudshell;

17 (5) oyster bed rentals and permits;

18 (6) federal funds received for fish and wildlife
19 research, management, development and conservation, resource
20 protection, and law enforcement, unless the funds are received for
21 the specific purposes of Subchapter F, Chapter 77;

22 (7) sale of property, less advertising costs,
23 purchased from this account or a special fund or account that is now
24 part of this account;

- 1 (8) fines and penalties collected for violations of a
2 law pertaining to the protection and conservation of wild birds,
3 wild fowl, wild animals, fish, shrimp, oysters, game birds and
4 animals, fur-bearing animals, alligators, and any other wildlife
5 resources of this state;
- 6 (9) sale of rough fish by the department;
- 7 (10) fees for importation permits;
- 8 (11) fees from supplying fish for or placing fish in
9 water located on private property;
- 10 (12) sale of seized pelts;
- 11 (13) sale or lease of grazing rights to and the
12 products from game preserves, sanctuaries, and management areas;
- 13 (14) contracts for the removal of fur-bearing animals
14 and reptiles from wildlife management areas;
- 15 (15) vessel registration fees;
- 16 (16) vessel manufacturer or dealer licensing fees;
- 17 (17) fines or penalties imposed by a court for
18 violation of water safety laws contained in Chapter 31 of this code;
- 19 (18) alligator hunter's or alligator buyer's licenses;
- 20 (19) sale of alligators or any part of an alligator by
21 the department;
- 22 (20) fees and revenue collected under Section
23 11.027(b) or (c) of this code that are associated with the
24 conservation of fish and wildlife;
- 25 (21) fees related to cultivated oyster mariculture
26 ~~[any other source provided by law]; [and]~~
- 27 (22) vessel and outboard motor titling fees; and

1 (23) any other source provided by law.

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

4 (a) To the extent allowed by federal law, money in the game,
5 fish, and water safety account may be used for the following
6 purposes:

7 (1) enforcement of fish, shrimp, and oyster laws, game
8 laws, and laws pertaining to sand, shell, and gravel;

9 (2) dissemination of information pertaining to marine
10 life, wild animal life, wildlife values, and wildlife management;

11 (3) scientific investigation and survey of marine life
12 for the better protection and conservation of marine life;

13 (4) establishment and maintenance of fish hatcheries,
14 fish sanctuaries, tidal water fish passes, wildlife management
15 areas, and public hunting grounds;

16 (5) propagation and distribution of marine life, game
17 animals, and wild birds;

18 (6) protection of wild birds, fish, and game;

19 (7) purchase, repair, and operation of boats and
20 dredges;

21 (8) research, management, and protection of the fish
22 and wildlife resources of this state, including alligators and
23 fur-bearing animals;

24 (9) salaries of employees and other expenses necessary
25 to carry out the duties of the department under laws relating to
26 fish, shrimp, oysters, game, water safety, and sand, shell, and
27 gravel;

1 (10) expansion and development of additional
2 opportunities of hunting and fishing in state-owned land and water;

3 (11) removing rough fish from public water;

4 (12) administration and enforcement of the water
5 safety laws as set out in Chapter 31;

6 (13) purchasing all necessary forms and supplies,
7 including reimbursement of the department for any material produced
8 by its existing facilities or work performed by other divisions of
9 the department;

10 (14) purchase, construction, and maintenance of boat
11 ramps on or near public waters as provided in Chapter 31;

12 (15) resource protection activities; ~~and~~

13 (16) the cleanup of illegal or abandoned cultivated
14 oyster mariculture equipment and related debris in public water;
15 and

16 (17) any other use provided by law.

17 SECTION 3. Section 47.0091, Parks and Wildlife Code, is
18 amended to read as follows:

19 Sec. 47.0091. PURCHASE OF AQUATIC PRODUCTS BY WHOLESALE
20 FISH DEALERS. No wholesale fish dealer may purchase for resale or
21 receive for sale, barter, exchange, or any other commercial purpose
22 any aquatic product from any person or entity in this state unless
23 he purchases the product from the holder of:

24 (1) a general commercial fisherman's license;

25 (2) a commercial oyster fisherman's license;

26 (3) a commercial oyster boat license;

27 (4) a wholesale fish dealer's license;

- 1 (5) a fish farmer's license;
- 2 (6) a commercial shrimp boat license;
- 3 (7) a commercial oyster boat captain's license;
- 4 (8) a commercial shrimp boat captain's license;
- 5 (9) a commercial crab fisherman's license;
- 6 (10) a commercial finfish fisherman's license; [~~or~~]
- 7 (11) a commercial gulf shrimp unloading license; or
- 8 (12) a cultivated oyster mariculture permit.

9 SECTION 4. Subtitle D, Title 5, Parks and Wildlife Code, is
10 amended by adding Chapter 75 to read as follows:

11 CHAPTER 75. CULTIVATED OYSTER MARICULTURE

12 Sec. 75.0101. DEFINITIONS. In this chapter:

13 (1) "Broodstock oyster" means an oyster collected for
14 the purpose of growing cultivated oysters.

15 (2) "Cultivated oyster" means an oyster grown at any
16 point in the life cycle of the oyster in or on an artificial
17 structure suspended in the water or resting on the bottom.

18 (3) "Cultivated oyster mariculture" means the process
19 of growing cultivated oysters.

20 (4) "Natural oyster bed" has the meaning assigned by
21 Section 76.001.

22 (5) "Oyster" means the Eastern oyster and the
23 subspecies of the Eastern oyster.

24 Sec. 75.0102. APPLICABILITY; CONFLICT OF LAWS. (a) An
25 oyster bed that is part of a cultivated oyster mariculture
26 operation is not a natural oyster bed or a private oyster bed and is
27 not subject to location requirements under Subchapter A, Chapter

1 76.

2 (b) The licensing and permitting requirements of
3 Subchapters B, C, and F, Chapter 76, do not apply to activity
4 carried out under a cultivated oyster mariculture permit issued
5 under this chapter.

6 (c) A regulation adopted under Section 76.301 does not apply
7 to an activity carried out under a cultivated oyster mariculture
8 permit issued under this chapter.

9 (d) A rule or proclamation issued under this section
10 prevails to the extent of conflict over a rule or proclamation
11 issued under:

12 (1) Chapter 61; or

13 (2) Chapter 76.

14 (e) Section 2001.0045, Government Code, does not apply to
15 rules adopted under this chapter.

16 Sec. 75.0103. CULTIVATED OYSTER MARICULTURE PROGRAM. (a)
17 The commission shall adopt rules to establish a program governing
18 cultivated oyster mariculture.

19 (b) Rules adopted under this program may establish
20 requirements for:

21 (1) the location and size of a cultivated oyster
22 mariculture operation;

23 (2) the taking, possession, transport, movement, and
24 sale of cultivated oysters;

25 (3) the taking, possession, transport, and movement of
26 broodstock oysters;

27 (4) marking requirements for cultivated oyster beds;

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

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

5 (c) The department shall coordinate with the Department of
6 Agriculture, the Department of State Health Services, the General
7 Land Office, and the Texas Commission on Environmental Quality in
8 the adoption of rules under this section.

9 Sec. 75.0104. CULTIVATED OYSTER MARICULTURE PERMIT
10 REQUIRED. (a) No person may engage in cultivated oyster
11 mariculture without first having acquired a cultivated oyster
12 mariculture permit.

13 (b) The commission shall adopt rules to implement this
14 section. Rules adopted under this section may establish
15 requirements for:

16 (1) permit applications and application fees;

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

19 (3) procedures for hearings related to a permit.

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

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

1 (c) The department shall set aside 20 percent of the fees
2 collected under this chapter. That money shall be deposited to the
3 credit of the cultivated oyster mariculture cleanup subaccount in
4 the game, fish, and water safety account and may be used only for
5 the cleanup of illegal or abandoned cultivated oyster mariculture
6 equipment and related debris in public water.

7 Sec. 75.0106. PROHIBITED ACTIONS. (a) No person may sell
8 or barter, or offer to sell or barter, a cultivated oyster, except
9 as authorized by this chapter.

10 (b) No person may place a cultivated oyster in a natural
11 oyster bed or private oyster bed.

12 Sec. 75.0107. PENALTIES. (a) For purposes of this section,
13 "final conviction" includes a plea of guilty or nolo contendere to
14 or the imposition of deferred adjudication or deferred disposition
15 for an offense.

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

19 (c) A person who violates Section 75.0104(a) or 75.0106 or a
20 rule adopted under this chapter commits an offense that is a Class B
21 Parks and Wildlife Code misdemeanor if it is shown on the trial of
22 the offense that the person has a previous final conviction of an
23 offense under Section 75.0104(a) or 75.0106.

24 SECTION 5. Not later than August 21, 2020, the Parks and
25 Wildlife Commission shall adopt rules to implement Chapter 75,
26 Parks and Wildlife Code, as added by this Act.

27 SECTION 6. This Act takes effect September 1, 2019.