

By: Hinojosa

S.B. No. 761

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of oyster harvesting; increasing a criminal penalty.

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

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

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

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

~~[(1) the defendant is the captain of a commercial oyster boat or a member of the crew of a commercial oyster boat,~~

~~[(2) the provision or regulation violated relates to oyster size, and~~

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

(e-3) An [~~The punishment for an~~] offense during the

1 commission of which the defendant was in possession of a cargo of
2 oysters in which 30 percent or more of the oysters measured less
3 than three inches in length along an imaginary straight line
4 through the long axis of the shell or an offense related to the
5 harvest of oysters from a closed area [~~otherwise punishable under~~
6 ~~Subsection (a)~~] is a Class B [~~C~~] Parks and Wildlife Code
7 misdemeanor, [~~with an attendant license suspension under Section~~
8 ~~76.1181,~~] if it is shown on the trial of the offense that[~~+~~

9 [~~(1) the defendant is the captain of a commercial~~
10 ~~oyster boat or a member of the crew of a commercial oyster boat,~~

11 [~~(2) the provision or regulation violated relates to~~
12 ~~oyster size and the defendant was in possession of a cargo of~~
13 ~~oysters in which 30 percent or more of the oysters measured less~~
14 ~~than three inches in length along an imaginary straight line~~
15 ~~through the long axis of the shell,~~ and

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

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

22 (2) the harvest of oysters from a closed area.

23 (e-4) The punishment for an offense otherwise punishable
24 under Subsection (a) is a Class A [~~B~~] Parks and Wildlife Code
25 misdemeanor, with an attendant license suspension under Section
26 76.1181, if it is shown on the trial of the offense that:

27 (1) the defendant is the captain of a commercial

1 oyster boat or a member of the crew of a commercial oyster boat;

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

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

7 (B) the harvest of oysters from a closed area;

8 and

9 (3) the defendant has previously been convicted at
10 least two times for a violation of a provision or regulation
11 relating to:

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

16 or

17 (B) the harvest of oysters from a closed area.

18 (g) If it is shown on ~~at~~ the trial of a defendant for a
19 violation ~~[at the same time]~~ of Section 76.109 and either Section
20 76.115 or 76.116 occurring in the same criminal episode ~~[or Section~~
21 ~~76.205 of this code]~~ that the defendant has been convicted once
22 before within five years before the trial date of a violation ~~at~~
23 ~~the same time]~~ of Section 76.109 and either Section 76.115 or 76.116
24 ~~[or 76.205 of this code]~~ occurring in the same criminal episode, the
25 defendant is guilty of a Parks and Wildlife Code felony.

26 SECTION 2. The change in law made by this Act applies only
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is
2 governed by the law in effect on the date the offense was committed,
3 and the former law is continued in effect for that purpose. For
4 purposes of this section, an offense was committed before the
5 effective date of this Act if any element of the offense occurred
6 before that date.

7 SECTION 3. This Act takes effect September 1, 2019.