

SENATE AMENDMENTS

2nd Printing

By: Martinez

H.B. No. 1828

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the sale and purchase of certain aquatic products; creating a criminal offense; increasing a criminal penalty.

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

SECTION 1. Subchapter A, Chapter 47, Parks and Wildlife Code, is amended by adding Section 47.0121 to read as follows:

Sec. 47.0121. UNLAWFUL COMMERCIAL SALE OR PURCHASE OF AQUATIC PRODUCTS. A person commits an offense if the person purchases for resale or receives for sale, barter, exchange, transport, or any other commercial purpose aquatic products that are taken, possessed, transported, or sold in violation of a federal or state law or regulation.

SECTION 2. Section 47.051, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.051. PENALTY. Except as provided by Sections ~~[Section]~~ 47.052 and 47.053 ~~[of this code]~~, a person who violates a provision of this chapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 3. Subchapter C, Chapter 47, Parks and Wildlife Code, is amended by adding Section 47.053 to read as follows:

Sec. 47.053. PENALTY. (a) A person who violates or fails to comply with Section 47.0121 commits an offense that is:

(1) a Class B Parks and Wildlife Code misdemeanor

punishable by a fine of at least:

(A) \$500 if the weight of the aquatic products totals 10 pounds or more but less than 50 pounds; or

(B) \$1,000 if the weight of the aquatic products totals 50 pounds or more but less than 100 pounds;

(2) a Class A Parks and Wildlife Code misdemeanor punishable by a fine of at least:

(A) \$1,500 if the weight of the aquatic products totals 100 pounds or more but less than 200 pounds; or

(B) \$2,000 if the weight of the aquatic products totals 200 pounds or more but less than 300 pounds; or

(3) a Parks and Wildlife Code state jail felony for which, in addition to confinement, the person may be punished by a fine of at least:

(A) \$3,000 if the weight of the aquatic products totals 300 pounds or more but less than 500 pounds; or

(B) \$4,000 if the weight of the aquatic products totals 500 pounds or more.

(b) An offense under this section may be prosecuted in the county in which the aquatic products were unlawfully taken, possessed, transported, or sold or in any county through or into which the aquatic products were taken or transported.

(c) When aquatic products are obtained in violation of Section 47.0121 under one scheme or continuing course of conduct, whether from the same or several sources, the scheme or conduct may be considered as one offense and the weight of the aquatic products aggregated in determining the grade of the offense.

1 SECTION 4. The change in law made by this Act applies only
2 to an offense committed on or after the effective date of this Act.
3 An offense committed before the effective date of this Act is
4 governed by the law in effect on the date the offense was committed,
5 and the former law is continued in effect for that purpose. For
6 purposes of this section, an offense was committed before the
7 effective date of this Act if any element of the offense occurred
8 before that date.

9 SECTION 5. This Act takes effect September 1, 2019.

ADOPTED

MAY 10 2019

Leta Spaw
Secretary of the Senate

By: Fallon

H.B. No. 1828

Substitute the following for H.B. No. 1828:

By: Brandon Coughton

C.S. H.B. No. 1828

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the sale and purchase of certain aquatic products; creating a criminal offense; increasing a criminal penalty.

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

SECTION 1. Subchapter A, Chapter 47, Parks and Wildlife Code, is amended by adding Section 47.0121 to read as follows:

Sec. 47.0121. UNLAWFUL COMMERCIAL SALE OR PURCHASE OF AQUATIC PRODUCTS. (a) A person commits an offense if the person purchases for resale or receives for sale, barter, exchange, transport, or any other commercial purpose aquatic products that are taken, possessed, transported, or sold in violation of a federal or state law or regulation.

(b) It is an affirmative defense to prosecution under this section that the person:

(1) had no reason to believe at the time the offense was committed that the aquatic products purchased for resale or received for sale, barter, exchange, transport, or any other commercial purpose were taken, possessed, transported, or sold in violation of a federal or state law or regulation; and

(2) purchased or received the aquatic products described by Subdivision (1) from a seller who had a valid commercial license to sell aquatic products.

SECTION 2. Section 47.051, Parks and Wildlife Code, is

1 amended to read as follows:

2 Sec. 47.051. PENALTY. Except as provided by Sections
3 ~~[Section]~~ 47.052 and 47.053 [of this code], a person who violates a
4 provision of this chapter commits an offense that is a Class C Parks
5 and Wildlife Code misdemeanor.

6 SECTION 3. Subchapter C, Chapter 47, Parks and Wildlife
7 Code, is amended by adding Section 47.053 to read as follows:

8 Sec. 47.053. PENALTY. (a) A person who violates or fails
9 to comply with Section 47.0121 commits an offense that is:

10 (1) a Class B Parks and Wildlife Code misdemeanor
11 punishable by a fine of at least:

12 (A) \$500 if the weight of the aquatic products
13 totals 10 pounds or more but less than 50 pounds; or

14 (B) \$1,000 if the weight of the aquatic products
15 totals 50 pounds or more but less than 100 pounds;

16 (2) a Class A Parks and Wildlife Code misdemeanor
17 punishable by a fine of at least:

18 (A) \$1,500 if the weight of the aquatic products
19 totals 100 pounds or more but less than 200 pounds; or

20 (B) \$2,000 if the weight of the aquatic products
21 totals 200 pounds or more but less than 300 pounds; or

22 (3) a Parks and Wildlife Code state jail felony for
23 which, in addition to confinement, the person may be punished by a
24 fine of at least:

25 (A) \$3,000 if the weight of the aquatic products
26 totals 300 pounds or more but less than 500 pounds; or

27 (B) \$4,000 if the weight of the aquatic products

1 totals 500 pounds or more.

2 (b) An offense under this section may be prosecuted in the
3 county in which the aquatic products were unlawfully taken,
4 possessed, transported, or sold or in any county through or into
5 which the aquatic products were taken or transported.

6 (c) When aquatic products are obtained in violation of
7 Section 47.0121 under one scheme or continuing course of conduct,
8 whether from the same or several sources, the scheme or conduct may
9 be considered as one offense and the weight of the aquatic products
10 aggregated in determining the grade of the offense.

11 SECTION 4. The change in law made by this Act applies only
12 to an offense committed on or after the effective date of this Act.
13 An offense committed before the effective date of this Act is
14 governed by the law in effect on the date the offense was committed,
15 and the former law is continued in effect for that purpose. For
16 purposes of this section, an offense was committed before the
17 effective date of this Act if any element of the offense occurred
18 before that date.

19 SECTION 5. This Act takes effect September 1, 2019.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 10, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1828 by Martinez (Relating to prohibiting the sale and purchase of certain aquatic products; creating a criminal offense; increasing a criminal penalty.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Parks and Wildlife Code related to prohibiting the sale and purchase of certain aquatic product. The bill would create criminal offenses ranging from a Class B misdemeanor to a state jail felony for certain unlawful commercial sales or purchases of aquatic products. The bill would take effect September 1, 2019.

According to the Comptroller of Public Accounts, the amount of revenue potentially resulting from fines, costs, or fees associated with an offense cannot be determined. Based on analysis of the Parks and Wildlife Department, duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 802 Parks and Wildlife Department

LBB Staff: WP, SD, TBo, SZ, MW, SPa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 30, 2019

TO: Honorable Charles Perry, Chair, Senate Committee on Water & Rural Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1828 by Martinez (Relating to prohibiting the sale and purchase of certain aquatic products; creating a criminal offense; increasing a criminal penalty.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Parks and Wildlife Code related to prohibiting the sale and purchase of certain aquatic product. The bill would create criminal offenses ranging from a Class B misdemeanor to a state jail felony for certain unlawful commercial sales or purchases of aquatic products. The bill would take effect September 1, 2019.

According to the Comptroller of Public Accounts, the amount of revenue potentially resulting from fines, costs, or fees associated with an offense cannot be determined. Based on analysis of the Parks and Wildlife Department, duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 802 Parks and Wildlife Department
LBB Staff: WP, TBo, SZ, MW, SPa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 18, 2019

TO: Honorable Charles Perry, Chair, Senate Committee on Water & Rural Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1828 by Martinez (Relating to prohibiting the sale and purchase of certain aquatic products; creating a criminal offense; increasing a criminal penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Parks and Wildlife Code related to prohibiting the sale and purchase of certain aquatic product. The bill would create criminal offenses ranging from a Class B misdemeanor to a state jail felony for certain unlawful commercial sales or purchases of aquatic products. The bill would take effect September 1, 2019.

According to the Comptroller of Public Accounts, the amount of revenue potentially resulting from fines, costs, or fees associated with an offense cannot be determined. Based on analysis of the Parks and Wildlife Department, duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 802 Parks and Wildlife Department

LBB Staff: WP, SZ, MW, TBo, SPa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 16, 2019

TO: Honorable John Cyrier, Chair, House Committee on Culture, Recreation & Tourism

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1828 by Martinez (Relating to prohibiting the sale and purchase of certain aquatic products; creating a criminal offense; increasing a criminal penalty.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Parks and Wildlife Code related to prohibiting the sale and purchase of certain aquatic product. The bill would create criminal offenses ranging from a Class B misdemeanor to a state jail felony for certain unlawful commercial sales or purchases of aquatic products. The bill would take effect September 1, 2019.

According to the Comptroller of Public Accounts, the amount of revenue potentially resulting from fines, costs, or fees associated with an offense cannot be determined. Based on analysis of the Parks and Wildlife Department, duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 802 Parks and Wildlife Department

LBB Staff: WP, SZ, MW, TBo, SPa

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

March 16, 2019

TO: Honorable John Cyrier, Chair, House Committee on Culture, Recreation & Tourism

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1828 by Martinez (Relating to prohibiting the sale and purchase of certain aquatic products; creating a criminal offense; increasing a criminal penalty.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Parks and Wildlife Code to create a criminal offense for unlawful commercial sale or purchase of aquatic products. The punishment for this offense would range from a misdemeanor to a state jail felony with the punishment level and fine based on the aggregate weight of the aquatic product sold or purchased.

A Parks and Wildlife Code state jail felony is punishable by confinement in a state jail for a term of not more than two years or less than 180 days. In addition to confinement, an individual adjudged guilty of a Parks and Wildlife Code state jail felony may be punished by a fine of not less than \$1,500 and not more than \$10,000. A Class A Parks and Wildlife code misdemeanor is punishable by confinement in county jail for a term not to exceed one year, a fine of not less than \$500 nor more than \$4,000, or both.

Creating a new criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to an increase of individuals placed under supervision in the community or admitted into state correctional institutions. Increasing the penalty for any criminal offense is expected to result in additional demands upon the correctional resources of the counties or of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. The bill may have a negative population impact by increasing the number of people on felony community supervision or incarcerated within state correctional institutions. However, this analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, LM, SPa